

APPENDIX A

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ORDINANCES 92 AND 119

**Effective March 1, 1999
Amended March 21, 2005**

**FINAL
ORDINANCE NO. 92**

**AN ORDINANCE OF THE
BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING AN EXPANDED WATER CONSERVATION AND
STANDBY WATER RATIONING PLAN**

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. This Ordinance is enacted to respond to present and threatened water emergencies, as provided by Section 332 of the District Law. Water emergencies addressed by this ordinance are created by both legal and physical circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.
4. The District Board declared a water supply emergency in accord with Section 332 of the District Law upon implementation of Supply Option V of the Water Allocation Program Environmental Impact Report in 1990. This water supply emergency remains in effect.
5. The Water Supply Emergency was substantiated in April 1991 upon adoption of Ordinance No. 54, Defining Phase I Water Use Rules. Ordinance No. 54 remains in effect except as amended by this ordinance.
6. State Water Resources Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water historically supplied to Cal-Am users. The SWRCB has set specific goals to reduce Cal-Am's water diversions from the Carmel River Basin.
7. Under SWRCB Order No. WR 95-10, Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent water year.
8. This ordinance shall be one part of the Monterey Peninsula Water Management District's Urban Water Management Plan.

9. This ordinance is exempt from the California Environmental Quality Act (CEQA) under Water Code §10652. This ordinance is also exempt from the requirements of CEQA under the provisions of CEQA Guideline 15269 (c) and 15282 (w).
10. The following District Rules shall be amended or deleted by this ordinance: Rule 11 (Definitions), Rule 92 (Rationing Variance), Rule 104 (Water Rationing), and Rule 106 (Regulation of Mobile Water Distribution Systems During a Water Supply Emergency).
11. The following District Rules shall be added by this ordinance: Regulation XV Expanded Water Conservation and Standby Rationing Plan, Rule 160 (Rationing General Provisions), Rule 161 (Stage 1 Water Conservation), Rule 162 (Stage 2 Water Conservation), Rule 163 (Stage 3 Water Conservation), Rule 164 (Stage 4 Water Rationing), Rule 165 (Stage 5 Water Rationing), Rule 166 (Stage 6 Water Rationing), Rule 167 (Stage 7 Water Rationing), Rule 168 (Water Banks), Rule 169 (Water Rationing Variance), Rule 170 (Water User Survey), Rule 171 (Water Waste Fees), Rule 172 (Landscape Water Budgets), Rule 173 (Regulation of Mobile Water Distribution Systems During a Water Supply Emergency), Rule 174 (Regulation of Well Owners/Operators and Extractors), Rule 175 (Water Rationing Enforcement).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section 1: Short Title

This ordinance shall be known as the "Expanded Water Conservation and Standby Rationing Plan" of the Monterey Peninsula Water Management District. This ordinance shall add Regulation XV - Expanded Water Conservation and Standby Rationing Plan to the Rules and Regulations.

Section 2: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Expanded Water Conservation and Standby Rationing Plan as legal authority to set standards and procedures pertaining to water use restrictions and water rationing requirements for the Monterey Peninsula during present and future water supply emergencies. This ordinance is intended to maintain Cal-Am's water production from the Carmel River below the limits set by the SWRCB in its Order No. WR 95-10, to respond to system-wide water storage shortages, and to respond to emergency situations that require immediate water use reductions. This ordinance responds to present and threatened water emergencies created by both legal and physical circumstances that constrain the amount of water available to serve water users in the Monterey Peninsula area. This ordinance establishes seven response levels to the water supply emergency to ensure consumptive use of water does not exceed anticipated water supplies available to the District. Upon the effective date of this ordinance, Stage 1 Water Conservation shall be implemented immediately. This ordinance shall modify the existing Rules and Regulations of the District.

Section 3: General Provisions

- A. All water users within the Monterey Peninsula Water Management District shall be subject to the District's water waste and non-essential water use prohibitions.
- B. Prohibitions against water waste and non-essential water use shall be enforced by the District and its designated agents in accordance with Rule 171 (Water Waste Fees).
- C. Stage 1 Water Conservation shall be implemented upon the effective date of this regulation.
- D. Stage 1 Water Conservation parallels Cal-Am's Phase IV Mandatory Water Conservation program that was designed to meet the Carmel Valley water production limits set by the SWRCB and approved by the Public Utilities Commission. Stages 1 through 3 Water Conservation are intended to achieve the Carmel Valley water production limits set by the State Board. Stage 4 Water Rationing through Stage 7 Water Rationing are intended to respond to limitations in supply caused by inadequate system inflow and storage.
- E. Stage 1 Water Conservation through Stage 3 Water Conservation shall apply to water users of the Cal-Am water distribution system where that system derives its source of supply from the Monterey Peninsula Water Resources System (MPWRS) for as long as Cal-Am is subject to water production goals and limitations enforced by the SWRCB.
- F. Stage 4 Water Rationing through Stage 7 Water Rationing may apply to all water distribution system users and water users within the Monterey Peninsula Water Resources System as a response to limited water supply. These stages shall also serve as responses to emergency situations where immediate reductions in water use are necessary to ensure public health, safety or welfare. This regulation authorizes the Board of Directors to, from time to time, determine by Resolution that any water distribution system or set of water users within the Monterey Peninsula Water Management District shall be subject to Stages 4 Water Rationing through Stage 7 Water Rationing as provided in this ordinance.
- G. As to water derived from the MPWRS, Cal-Am shall maintain unaccounted for water use in its MPWRS distribution system at or below seven (7) percent. Average losses of more than seven (7) percent during the most recent twelve month period shall be considered water waste. This limitation shall not affect any Cal-Am system east of, and including, the Ryan Ranch subunit.
- H. Cal-Am shall amend its Urban Water Management Plan to conform to the policies and procedures described in this ordinance. A copy of the plan and amendment shall be filed with the District within 180 days of the effective date of this ordinance. The plan shall comply with the California Water Code, Division 6, Part 2.6.
- I. Cal-Am shall prepare an analysis of the impacts of each of the actions and conditions described in this ordinance, inclusive, on the revenues and expenditures of Cal-Am, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments. A copy of the analysis shall be provided to the District.

- J. Cal-Am shall prepare a per-capita-based tariff rate design and submit this rate design to the California Public Utilities Commission for review and approval. A copy of the plan filed with the California Public Utilities Commission shall be provided to the District. This rate design shall include and be based on the following:
- ▶ An accurate survey of water users who are served by the Cal-Am water distribution system where that system derives water from the MPWRS;
 - ▶ An assumed Cal-Am annual production value that does not exceed the amount of the water production goal set by the SWRCB;
 - ▶ Unaccounted for water use that does not exceed an average of seven (7) percent of total Cal-Am production;
 - ▶ A fair weighting to differentiate residential from non-residential water uses based upon historic water use by that sector;
 - ▶ Factors to fairly differentiate small and large residential lots;
 - ▶ A methodology which provides an equal amount of water for each permanent resident;
 - ▶ A methodology which provides a fair quantity of water for each residential and non-residential use based upon current consumption factors and Best Management Practices.
 - ▶ A mechanism to implement excessive use rates or accelerated rate increases during Stage 3 Water Conservation as a mechanism to discourage excessive water use.
 - ▶ A statement regarding the confidentiality of information gathered pertaining to the number of residents on single-family and multi-family accounts.
- K. The provisions of paragraphs A through J, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 160 (Rationing General Provisions).

Section 4: Water Distribution Systems and Water Users Affected

- A. Upon the effective date, this regulation shall apply to all water users within the Monterey Peninsula Water Management District. Stages 1 through 3 Water Conservation may thereafter be triggered under the provisions of this regulation for water users of the Cal-Am water distribution system where that water system derives water from the MPWRS.
- B. All water distribution systems and water users deriving water from the MPWRS shall be subject to Stage 4 Water Rationing through Stage 7 Water Rationing of Regulation XV when those stages take effect due to water supply limitations caused by drought or emergency. Water

distribution systems and water users outside the MPWRS shall be subject to this regulation only upon Resolution by the Board of Directors in response to physical or legal restrictions which effect sources of supply outside the MPWRS.

- C. A list of water distribution systems within and without the MPWRS shall be maintained by the District.

Section 5: Definitions

- A. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below.

1. Addition - "Addition" shall mean an expansion of usable square-footage in a building, or in a non-residential use the use of new area which causes an intensification of use as defined in Rule 11 (Definitions).
2. Base Use - "Base Use" shall mean a reasonable amount of water anticipated to be used by a Cal-Am water user during Stages 1 through 3 Water Conservation. Base Use correlates to the base block rate established by Cal-Am for the individual customer.
3. Best Management Practices (BMP) - "Best Management Practices" or "BMP" shall mean industry-specific water conservation practices, retrofits, equipment and facilities recognized by the District and approved by the Board of Directors.
4. Cal-Am Unaccounted For Water Uses - "Cal-Am Unaccounted For Water Uses" shall mean the difference between what is recorded at the production meters and the consumption recorded through system meters or reported as estimates of reasonable uses. Unaccounted For Water Uses shall include system leakage.

Unaccounted for water is made up of the following: Unknown leakage, stolen water, unreported fire department usage, unreported street sweeping (and other municipal uses), unrecorded construction water, customer meters registering slow.
5. CAWD/PBCSD Wastewater Reclamation Project - "CAWD/PBCSD Wastewater Reclamation Project" shall mean the wastewater reclamation project undertaken by the Carmel Area Wastewater District and the Pebble Beach Community Services District that supplies reclaimed water to the golf courses and certain open space areas within Pebble Beach.
6. Commercial Use - "Commercial Use" shall mean water used in connection with commercial premises devoted primarily to, but not limited to offices, stores, markets, hotels, motels, and restaurants.

7. Dedicated Irrigation Meter - "Dedicated Irrigation Meter" shall mean a water meter exclusively used to measure outdoor water consumption.
8. Drip Irrigation - "Drip Irrigation" shall mean low pressure, low volume irrigation applied slowly, near or at ground level to minimize runoff and loss to evaporation.
9. Equivalent Consumption Unit - "Equivalent Consumption Unit" or "ECU" shall mean a base water use multiplication factor assigned to every Cal-Am customer to provide a fair weighting of all customers as compared to the lowest level of water use by any customer. Each customer's ECU factor shall be assigned by Cal-Am.
10. Evapotranspiration: "Evapotranspiration" or "ET" shall mean the loss of water from a vegetative surface through the combined processes of plant transpiration and soil evaporation. ET is equivalent to and frequently referred to as consumptive use.
11. Even Numbered Property - "Even Numbered Property" shall mean all property with an official address ending in an even number. This definition shall also apply to properties located on the North or East side of the street in cities or other areas where no numbered street address is available. Landscaped areas associated with a building will use the number of that building as the address. Only one address shall be used for a landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.
12. Excessive Use Rates - "Excessive Use Rates" shall mean a higher block water rate used by Cal-Am during Stage 3 Water Conservation as a mechanism to discourage excessive water use.
13. Flow Restrictor - "Flow Restrictor" shall mean a device placed into the water distribution system by the distribution system operator, or put into the output of a private well, that restricts the volume of flow to the user.
14. Golf Course - "Golf Course" shall mean an area of land designed for public or private recreational golf activities and which is zoned and approved by the local planning jurisdiction for that use.
15. Hand Watering - "Hand Watering" shall mean the application of water for irrigation purposes through a hand-held hose and through a positive-action shut-off nozzle.
16. Harvested Water - "Harvested Water" shall mean precipitation or irrigation runoff collected, stored and available for reuse for irrigation purposes.
17. Industrial Use - "Industrial Use" shall mean water used at an industrial site where the water is used primarily in manufacturing or processing activities.

18. Landscape Audit - "Landscape Audit" shall mean an action taken by a District-approved landscape irrigation auditor to determine reasonable outdoor water use.
19. Landscape Irrigation Auditor - "Landscape Irrigation Auditor" shall mean a person approved by the Monterey Peninsula Water Management District to perform landscape water audits and assign water budgets.
20. Landscape Water Budget - "Landscape Water Budget" shall mean a maximum annual water allowance in gallons per year, determined upon completion of a landscape water audit by a District-approved Landscape Irrigation Auditor. The Landscape Water Budget shall take into consideration the types of plants, soil condition, evapotranspiration rates and irrigation system.
21. Large Livestock - "Large Livestock" shall mean animals such as cattle, horses, llamas, pack animals and other similar animals.
22. Large Residential Water User - "Large Residential Water User" shall mean any residential user consuming an average of 32 units or more each month (23,936 gallons) or at least 384 units (287,232 gallons) in the year prior to establishment of a landscape water budget.
23. Mixed Use Water User - "Mixed Use Water User" shall mean users of water for domestic or other uses from any water distribution system or private well where one water meter or connection or well provides both residential and nonresidential use.
24. Mulch - "Mulch" shall mean any material such as leaves, bark, straw or other materials left loose and applied to the soil to reduce evaporation. Organic mulches include pine bark, compost, and wood chips. Inorganic mulches include rock, cobble, gravel, and synthetic water-holding soil additives.
25. Multi-Family Dwelling - "Multi-Family Dwelling" shall mean a building designed for occupancy by two or more families living independently of each other.
26. Multi-Family Residential Site - "Multi-Family Residential Site" shall mean a property with one or more multi-family dwellings, or a property containing more than one single-family dwelling.
27. Non-Revenue Metered and Unmetered Use - "Non-Revenue Metered and Unmetered Use" shall include water used for water distribution system-owned and leased facilities, flushing when necessary for health or safety purposes, use for production including filter backwashing at two filter plants, rights-of-way, river bank irrigation, and Cal-Am well property irrigation. This definition shall also apply to estimated beneficial water use by fire departments and other municipal uses not prohibited under the definition of Water Waste or Non-Essential Water Use.

28. Odd Numbered Property - "Odd Numbered Property" shall mean a property with an official address ending in an odd number. This definition shall also apply to properties located on the South or West side of the street in cities or other areas where no numbered street address is available. Landscaped areas associated with a building will use the number of that building as the address. Only one address shall be used for a landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.
29. "Other" Use - "'Other' Use" shall mean water used for road sprinkling and temporary hydrant use as reported by Cal-Am as a customer classification.
30. Permanent Resident - "Permanent Resident" shall mean a person who resides continuously in a dwelling unit for more than 30 days or a resident that can submit such other evidence to clearly and convincingly demonstrate permanent residency. Part-time residents (those individuals who periodically reside in a dwelling unit on a regular basis) shall be counted as a fractional permanent resident.
31. Positive Action Shut-Off Nozzle - "Positive Action Shut-Off Nozzle" shall mean a device that completely shuts off the flow of water from a hose when released.
32. Primary Residence - "Primary Residence" shall mean the main or principal dwelling unit inhabited by one or more persons.
33. Public Authority Use - "Public Authority Use" shall mean water used by a public entity.
34. Reclaimed Water - "Reclaimed Water" shall mean wastewater effluent that has been treated to the tertiary level, including disinfection. Reclaimed water is a form of recycled water.
35. Recycled Water - "Recycled Water" shall mean water that originates from a subpotable source of supply such as wastewater treated to the tertiary level or captured rain water.
36. Remodel - "Remodel" shall mean the rebuilding or rearrangement of an existing area that alters the water use capacity or modifies the water fixtures in a structure.
37. Residential - "Residential" shall mean water used for household purposes, including water used on the premises for irrigating lawns, gardens and shrubbery, washing vehicles, and other similar and customary purposes pertaining to single and multi-family dwellings.
38. Single-Family Dwelling - "Single-Family Dwelling" shall mean a building designed for occupancy by one family.

39. Single-Family Residential Site - "Single-Family Residential Site" shall mean a property with one single-family dwelling. A separate guest house or auxiliary unit without a kitchen shall be included in this definition
40. Short Term Residential Housing - "Short Term Residential Housing" shall mean one or more residential dwelling units on a property that are occupied by visitors, are operated as a business and for which a fee is charged to occupy the premises.
41. Small Water Distribution System - "Small Water Distribution System" shall mean a water distribution system with less than 50 connections.
42. Stage 1 Water Conservation - "Stage 1 Water Conservation" shall mean the first stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints by increasing conservation activities and preparing for further stages of conservation and rationing.
43. Stage 2 Water Conservation - "Stage 2 Water Conservation" shall mean the second stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints by requiring landscape water budgets for large irrigators of over three acres, large residential users and users with dedicated landscape water meters.
44. Stage 3 Water Conservation - "Stage 3 Water Conservation" shall mean the third stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints and to respond to potential drought or emergencies by imposing higher water charges for excessive water use.
45. Stage 4 Water Rationing - "Stage 4 Water Rationing" is defined as the fourth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 15 percent reduction goal from system production limits for non-Cal-Am water users. Reductions are achieved by voluntary water use cutbacks in addition to excessive use rates imposed during Stage 3 Water Conservation.
46. Stage 5 Water Rationing - "Stage 5 Water Rationing" shall mean the fifth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation with a 20 percent mandatory reduction achieved by requiring water use cutbacks by user category and by per-capita water rations and by enacting a moratorium on water permits that intensify water use.
47. Stage 6 Water Rationing - "Stage 6 Water Rationing" shall mean the sixth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a severe drought situation with a 35 percent mandatory reduction achieved by requiring water

use cutbacks by user category and by per-capita water rations and by enacting a moratorium on water permits that utilize public or private Water Use Credits and by restricting outdoor water use.

48. Stage 7 Water Rationing - "Stage 7 Water Rationing" shall mean the seventh stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a critical drought situation with a 50 percent mandatory reduction achieved by requiring water use cutbacks by user category and by per-capita water rations and by prohibiting all nonessential outdoor water use.
49. Unmetered Water Use - "Unmetered Water Use" shall mean water use that is not measured through a mechanical device.
50. Unrationed - "Unrationed" shall mean a time when there are no mandatory reductions in water use that apply to all water users within a distribution system.
51. Urban Water Management Plan - "Urban Water Management Plan" shall mean a plan prepared pursuant to Division 6, Part 2.6, Chapter 3, of the California Water Code.
52. User Category - "User Category" shall mean the classification of a water use in one of the following categories: Residential (single-family and multi-family), Commercial and Industrial, Public Authority, Golf Course, Other Use, Non-Revenue Metered Use, and Reclaimed Water Users.
53. Visitor - "Visitor" shall mean an occasional occupant who resides in a dwelling unit for less than 30 days, but who is not a part-time resident according to the "permanent resident" definition.
54. Water Unit - "Water Unit" shall mean an increment of water equal to 748 gallons.
55. Water Rationing Contingency - "Water Rationing Contingency" shall mean a percentage of water production not allocated for rations.
56. Water Bank - "Water Bank" shall mean an account managed by the District or its agent that tracks the difference in the amount of water used and the amount of each user's water ration during a calendar year.
57. Water Distribution System Operator - "Water Distribution System Operator" shall mean the person or persons who assume through the District permit process legal responsibility for the proper performance of the requirements of a water distribution system permit holder as defined in the Rules and Regulations and/or in conditions attached to a permit.
58. Water Supply Emergency - "Water Supply Emergency" shall mean a declaration that a water shortage emergency condition prevails within the area.

59. Water User - "Water User" shall mean users of water for domestic or other uses from any water distribution system or private well.

60. Xeriscape - "Xeriscape" shall mean the practice of conserving water and energy through creative landscaping using good landscape design, limiting lawn areas, irrigating efficiently, improving soils, using mulches, choosing low water use plants and employing other good landscape maintenance practices.

B. The words and phrases defined above in paragraph A of this Section shall further be set forth as defined terms within Rule 11 (Definitions) of the District's Rules and Regulations.

Section 6: Amendment to Rule 11 (Definitions)

The following modifications (in bold and strikeout) shall be made to Rule 11 (Definitions) of the District Rules and Regulations.

MONTEREY PENINSULA WATER RESOURCE SYSTEM - "Monterey Peninsula Water Resource System":

- (a) shall refer to lands which overlie or are contiguous to (in whole or in part) water in the Carmel River (main stem and tributaries), ground water within the alluvial aquifer, and ground water within the Seaside Coastal Ground water Subbasin, as identified on MPMWD Boundary Map #1, as that may be amended from time to time; or
- (b) shall mean the ground water and surface water supplies which serve Cal-Am, other water distribution systems, and private well owners within the District, including the surface water and groundwater resources of the Carmel Valley (both the Carmel River and the Carmel Valley aquifer) and the resources of the Seaside Coastal groundwater subbasin. The Monterey Peninsula Water Resources System shall exclude resources of the Seaside Inland groundwater subbasin, and the Carmel Valley upland formation.
- (c) The District shall maintain a current list of Water Distribution Systems within the Monterey Peninsula Water Resource System.

NON-ESSENTIAL WATER USE - "Non-Essential Water Use" shall mean the indiscriminate or excessive dissipation of water which is unproductive, or does not reasonably sustain life or economic benefits. Non-essential water use includes but is not limited to the following:

- 1. Serving drinking water to any customer, unless expressly requested, by an restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for sale.

2. Operation of fountains, ponds, lakes or other ornamental use of potable water without recycling.
3. Unreasonable or excessive use of potable water for dust control or earth compaction without prior written approval of General Manager where non-potable water or other alternatives are available or satisfactory.
4. Use of unmetered fire hydrant water by individuals other than for fire suppression or utility system maintenance purposes, except upon prior approval of the General Manager.
5. Failure to meet MPWMD Regulation XIII, retrofit requirements for an existing business after having been given a reasonable amount of time to comply.
6. Draining and refilling of swimming pools or spas except (a) to prevent or correct structural damage or to comply with public health regulations, or (b) upon prior approval of the General Manager.

WATER WASTE - "Water Waste" shall mean the indiscriminate, unreasonable, or excessive running or dissipation of water. Water Waste shall include, but not be limited, to the following:

1. Waste caused by correctable leaks, breaks or malfunctions. This loss of potable water may be cited as water waste after a reasonable period of time has passed in which the leak or malfunction could have been corrected. Exceptions may be granted by the General Manager for corrections which are not feasible or practical.
2. Use of potable water for washing buildings, structures, driveways, patios, parking lots, tennis courts, or other hard surfaced areas, except in cases where health or safety are at risk.
3. Indiscriminate or excessive water use which allows excess to run to waste.
4. Use of potable water to irrigate turf, lawns, gardens or ornamental landscaping between 9:00 a.m. and 5:00 p.m. by means other than drip irrigation, or hand watering without quick acting positive shut-off nozzles. (Exceptions shall be made by the General Manager for professional gardeners where there is no ability to not water between 9:00 a.m. to 5:00 p.m.).
5. Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of water for washing commercial aircraft, cars, buses, boats, trailers or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use.

6. Transportation of water from the Monterey Peninsula Water Resources System without prior written authorization from the MPWMD shall be deemed water waste. Emergency or health related situations are exempt from this provision in accordance with Rule 168 (Water Rationing Variance).
7. Operation of a commercial car wash without recycling at least 50 percent of the potable water used per cycle.
8. Use of water for more than minimal landscaping, as defined in the landscaping regulations of the jurisdiction or as described in Article 10.8 of the California Government Code.
9. Use of potable water for street cleaning.
10. Outdoor watering in violation of landscape irrigation restrictions required by Stage 1 Water Conservation.
11. Failure to maintain water use within a mandatory landscape water budget.
12. Misrepresentation of the number of persons permanently residing on a property where water is supplied by a water distribution system or by a private well.

The following activities shall not be cited as Water Waste:

1. Flow resulting from fire fighting or essential inspection of fire hydrants;
2. Water applied to abate spills of flammable or otherwise hazardous materials, where water application is the appropriate methodology;
3. Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;
4. Storm run-off;
5. Flow from fire training activities during Stage 1 Water Conservation through Stage 3 Water Conservation;
6. Reasonable quantities of water applied as dust control as required by the Monterey Bay Unified Air Pollution Control Agency, except when prohibited by Regulation XV.

RESPONSIBLE PARTY - "Responsible Party" means the person or persons who assume through the District permit process legal responsibility for the proper performance of the requirements of a permit holder as defined in the Rules and Regulations and/or in conditions attached to a permit. "Responsible Party," when used in the context of the Expanded Water

Conservation and Standby Rationing Plan, shall mean the person who is responsible for paying the water bill. When a property is served by a private well or a small water distribution system, the "Responsible Party" shall be the water users of the well and the small distribution system operator.

Section 7: **Regulation of Mobile Distribution Systems During A Water Supply Emergency**

- A. No person, extractor, owner or operator shall operate a mobile water distribution system without first securing a written permit from the District. Applications for establishment of a mobile water distribution system shall be made pursuant to Rule 22 (Action On Application For Permit To Create/Establish A Water Distribution System) and shall be investigated, considered, determined, and acted upon on the same terms and conditions as provided for the approval, conditional approval or denial of a creation establishment permit.
- B. In the event prior authorization is not obtained by reason of an emergency or health related situation, authorization for the Mobile Distribution System permit shall be obtained from the District within five working days following the emergency or health related event.
- C. Delivery and receipt of water from an unpermitted Mobile Distribution System shall be deemed water waste.
- D. The provisions of paragraphs A, B and C of this Section shall be incorporated into the District Rules and Regulations as Rule 173 (Regulation of Mobile Distribution Systems During A Water Supply Emergency).

Section 8: **Survey**

A. **Stage 1 Water Conservation Survey**

- 1. Cal-Am shall conduct a confidential survey of all water users of the Cal-Am system that derive their source of supply from the MPWRS. This survey shall be required upon the effective date of this regulation. The survey shall request information to determine the number of permanent residents in each dwelling unit and the lot size of each residential site with permitted water service; the types of uses and amount of water use on non-residential sites; and the number of users and types of use(s) served by each water meter. Only information deemed appropriate for the effective operation of this program will be requested.
- 2. Cal-Am shall conduct the survey within 45 days of the effective date of Stage 1 Water Conservation. Survey forms shall be completed by the responsible party and returned to Cal-Am within 30 days of mailing. The District shall have visual access to this data during Stages 1 through 3 Water Conservation and shall be provided with a summary of the results of the survey by census tract within 105 days of the effective date of Stage 1 Water Conservation. Ca-Am shall maintain survey information by census tract and shall

provide unrestricted access to individual water use records when the District is actively investigating a variance, appeal or other rationing program action.

B. Stage 4 Water Rationing Survey.

1. The General Manager shall conduct a survey of MPWRS water users not deriving their source of supply from Cal-Am prior to effective date of Stage 5 Water Rationing. The survey shall request information to determine the number of permanent residents in each dwelling unit and the lot size of each residential site with permitted water use; the types of uses and amount of water use on non-residential sites; and the number of users and types of use(s) served by each water meter or connection. Only information deemed appropriate for the effective operation of this program will be requested.
2. The District shall mail the survey form to water users not supplied water by Cal-Am. Survey forms shall be completed by the responsible party and returned to the District within 30 days of mailing. The District shall preserve the confidentiality of this survey data.

C. Administration of Survey Data.

1. Cal-Am Water Users. Cal-Am shall maintain survey data for all MPWRS water users supplied water by Cal-Am and shall provide the District with access to all data. Cal-Am shall provide the District with an annual summary of survey information, or more frequently as required by the General Manager. Cal-Am shall preserve the confidentiality of survey data.
2. Non-Cal-Am Water Users. During Stage 5 Water Rationing through Stage 7 Water Rationing, the District shall maintain survey data for all water users supplied water from non-Cal-Am sources subject to those stages.
3. A full or partial survey may be conducted as deemed necessary by the District to maintain accurate data.
4. District staff shall maintain the confidentiality of Cal-Am and non-Cal-Am residential customer survey data. Violations of this provision shall be enforced as a misdemeanor under District law.

D. Reporting.

1. Responsibility of Water User.

- a. Each responsible party shall be responsible for accurately reporting the number of permanent residents in the dwelling unit or units or other information deemed appropriate for the effective operation of the program as requested on the survey form.

- b. Upon activation of a water meter, each responsible party shall complete a survey form.
 - (1) Cal-Am Water Users. The completed survey form shall be submitted to Cal-Am by customers of that distribution system.
 - (2) Non-Cal-Am Water Users. The completed survey form shall be submitted to the District or its agent by all other distribution systems users required to complete a survey form during Stage 5 Water Rationing through Stage 7 Water Rationing.
 - c. All responsible parties shall submit revised survey forms whenever there is a change in the number of permanent residents in a residential dwelling unit or whenever there is a change in a water user category in non-residential uses. Revised survey forms should be submitted to the appropriate party as indicated in Section 8, D, 1, b.
 - d. Property owners of short-term residential housing rentals shall provide information about the average number of annual occupants and the average rate of occupancy to the appropriate party as indicated in Section 8, D, 1, b.
2. Misrepresentation Violation. Any water user intentionally over-reporting the number of permanent residents in a dwelling unit or other information pertinent to establishing a water ration during Stages 4, 5, 6 and 7 Water Rationing may be charged with a misdemeanor punishable as an infraction as provided by Section 256 of the Monterey Peninsula Water Management District Law, Statutes of 1981, Chapter 986. Violations carry a maximum penalty of up to \$250 for each offense. Each separate day or portion thereof during which any violation occurs or continues without a good-faith effort by the responsible water user to correct the violation, may be deemed to constitute a separate offense, and upon conviction thereof, may be separately punishable.
3. Penalties for Misreporting. In addition to any charge for misrepresenting information as provided in Section 8-D-2, any or all of the following may be further imposed by the General Manager or his agent during Stages 4, 5, 6 and 7 Water Rationing where the violation occurs and continues without a good-faith effort by the responsible water user to correct the violation. Decisions pursuant to this rule are appealable under Rule 70 (Appeals).
- a. Intentional misrepresentation may be considered a violation of the water waste provisions and shall subject the water user to a fee for water waste; and/or
 - b. Intentional misrepresentation may cause the loss of any water bank accrued and shall cause the responsible party to be ineligible to accrue a water bank for a period of sixty (60) months; and/or

- c. Intentional misrepresentation may cause the assignment of a reduced water ration that may be as low as a ration for one person for a period of twelve (12) months following implementation of Stages 4, 5, 6 or 7 Water Rationing.
- 4. Audit. The District may periodically audit the survey data for accuracy. Upon question, the District may request additional evidence of residency to demonstrate the number of permanent residents at that site as defined in Rule 11 (Definitions).
- E. The provisions of paragraphs A, B, C and D of this Section shall be incorporated into the District Rules and Regulations as Rule 170 (Water User Survey).

Section 9: Landscape Water Audits

- A. Landscape audits shall be conducted during Stage 1 Water Conservation by the District and/or Cal-Am or their designated agent(s). Each party is authorized to conduct audits and establish water budgets for all dedicated irrigation meters, large irrigated areas over three acres, and large residential water users supplied by Cal-Am when that system derives its source of supply from the MPWRS. Landscape water audits shall be completed within 180 days of implementation of Stage 1 Water Conservation.
- B. Landscape water audits shall be offered by the District and/or Cal-Am or their agent free of charge to all water users of Cal-Am with dedicated landscape meters, large irrigated areas over three acres, and large residential water users. Water use records shall be reviewed annually to identify new water users required to establish a landscape water budget by this Section. Cal-Am shall provide the District with data on all completed water audits.
 - 1. Cal-Am water users shall be required to obtain landscape audits and establish water budgets if the property:
 - a. Has a dedicated landscape water meter; or
 - b. Is an irrigated area of greater than three acres; or
 - c. Is a large residential water user.
 - 2. All Landscape Water Auditors must be approved by the Monterey Peninsula Water Management District.
 - 3. All water users required to complete landscape audits and establish water budgets shall have the option of obtaining a landscape water audit and budget from an approved Landscape Water Auditor of their choice at their own expense.

4. Landscape Irrigation Audits not conducted by the District and/or Cal-Am shall be reported on a Landscape Water Budget Application. Landscape Water Budget Applications shall be submitted to the District within 180 days of the implementation of Stage 1 Water Conservation. Landscape water audits not performed by the District or Cal-Am are subject to review and acceptance by the District. Audits and budgets rejected by the District may be appealed to the Board of Directors pursuant to Rule 70 (Appeals).
 5. Landscape Irrigation Auditors shall arrange on-site visits to compile water records to review historic use, measure irrigated sites, identify plant materials by general groups, determine irrigation water requirements, estimate potential dollar and water savings. Landscape Irrigation Auditors shall also develop system testing strategies, check pressure and flow rates, and conduct water application distribution tests. Data shall be collected to determine irrigation uniformity and efficiency. Soil samples shall be examined to determine soil types and rootzone depths. Landscape Irrigation Auditors shall observe system operations, locate irrigation zones, prepare site audit maps and visually identify broken or misaligned equipment. All data from field tests shall be summarized and this information used to generate monthly irrigation base schedules. A copy of the Landscape Water Budget Application shall be provided to the water user. One copy of the Landscape Water Budget Application shall be submitted to the District.
 6. Cal-Am shall provide quarterly compliance status notices to each water user required to follow a mandatory landscape water budget.
- C. Modifications To Audited Landscapes. Following significant modification to an existing audited landscape, a new landscape water audit shall be conducted to establish an appropriate water budget. It shall be the responsibility of the property owner to ensure that a landscape water audit is conducted within 60 days of any such change and to submit a Landscape Water Budget Application to Cal-Am.
- D. Reporting and Analysis.
- Cal-Am shall preserve water use records and budgets for water users subject to this provision of law for such time as the Expanded Water Conservation and Standby Rationing Plan remains effective. Updated water budgets shall supersede previous data. Quarterly, a report shall be compiled by Cal-Am and provided to the District showing the account information and comparing the landscape water budget with actual consumption.
- E. Landscape Irrigation Restrictions in the Cal-Am system that derives its source of supply from the MPWRS. Unless watering is by drip irrigation, through a hand-held hose with a positive action shut-off nozzle, or performed by a professional gardener or landscaper, the following schedule shall apply:

1. Odd Numbered Properties shall water after 5 p.m. or before 9 a.m. on Saturdays and Wednesdays only. This schedule shall also apply to properties located on the South or West side of the street in cities where no street address is available.
 2. Even Numbered Properties shall water after 5 p.m. or before 9 a.m. on Sundays and Thursdays only. This schedule shall also apply to properties located on the North or East side of the street in cities where no street address is available.
- F. The provisions of paragraphs A through E, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 172 (Landscape Water Budgets).

Section 10: **Stage 1 Water Conservation**

- A. Stage 1 Water Conservation is defined as the first stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water derived from the MPWRS below regulatory constraints by increasing conservation activities and preparing for further stages of conservation and rationing. During Stage 1 Water Conservation, Cal-Am shall have the goal of maintaining its annual (October 1 through September 30) water production from the Carmel Valley below 11,285 acre-feet. This quantity may be modified by the SWRCB. Assuming a maximum annual production of 4,000 acre-feet from the Seaside Coastal Basin, this equates to a Cal-Am system production limit of 15,285 acre-feet. Each water user deriving water from the Cal-Am system that derives its source of supply from the MPWRS shall comply with District water waste and non-essential water use prohibitions and shall participate to the extent possible in voluntarily reducing water use.
- B. All water users with the Monterey Peninsula Water Management District shall comply with water waste and non-essential water use prohibitions.
- C. The provisions of paragraphs A and B of this Section shall be incorporated into the District Rules and Regulations as Rule 161 (Stage 1 Water Conservation).

Section 11: **Stage 2 Water Conservation**

- A. Stage 2 Water Conservation is defined as the second stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use from the MPWRS below regulatory constraints by requiring implementation of landscape water budgets for large irrigators of three acres or more, large residential water users and water users with dedicated landscape water meters.
- B. Stage 2 Water Conservation shall be enforced when Cal-Am production from the MPWRS has exceeded the year-to-date at month-end target as displayed in Table 1, and Cal-Am unaccounted for water uses are at or below an average of seven (7) percent for the most recent twelve month period.

Prior to implementation of Stage 2 Water Conservation, the General Manager shall review the Cal-Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent, Cal-Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses and shall immediately act on such plan. The General Manager shall have the authority to delay implementation of Stage 2 Water Conservation for one month to allow Cal-Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month-end target in the following month.

Table 1
REGULATORY WATER PRODUCTION TARGETS (AF)

Month	Carmel River Basin Trigger	Seaside Basin Target	Year-to-Date Production at Month-End Target
October	979	400	1,379
November	713	400	2,492
December	884	100	3,476
January	858	100	4,434
February	794	100	5,328
March	947	100	6,375
April	909	300	7,584
May	905	500	8,989
June	1,027	500	10,516
July	1,128	500	12,144
August	1,149	500	13,793
September	992	500	15,285
TOTAL	11,285	4,000	

- C. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 1 Water Conservation shall remain in force. Requirements may be modified or superseded by actions taken in future stages of the Expanded Water Conservation and Standby Rationing Plan.
- D. Implementation of Landscape Water Budgets. All water users required to obtain a landscape water budget in Section 9-B are required to manage outdoor irrigation within the landscape water budget assigned to the property.
- E. Water use in excess of the established landscape water budget shall be considered Water Waste and shall be subject to the Section 18 of this regulation.
- F. Sunset of Stage 2 Water Conservation. Without further action of the Board of Directors, the provisions of Stage 2 Water Conservation shall be rescinded and revert to Stage 1 Water Conservation upon compliance with the year-to-date at month-end production goal for the first two months of the subsequent water year
- G. The provisions of paragraphs A, B, C, D, E and F of this Section shall be incorporated into the District Rules and Regulations as Rule 162 (Stage 2 Water Conservation).

Section 12: Stage 3 Water Conservation

- A. Stage 3 Water Conservation is defined as the third stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints.

Prior to implementation of Stage 3 Water Conservation, the General Manager shall review the Cal-Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent, Cal-Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses and shall immediately act on such plan. The General Manager shall have the authority to delay implementation of Stage 3 Water Conservation for one month to allow Cal-Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month-end target in the following month.

- B. Regulatory Trigger. Stage 3 Water Conservation shall be enforced when Cal-Am production from the MPWRS has exceeded the year-to-date at month-end target as displayed in Table 1 for a second time in any water year, and Cal-Am unaccounted for water uses in the MPWRS are at or below an average of seven percent for the most recent twelve month period.
- C. Sunset of Stage 3 Water Conservation. Without further action by the Board of Directors, the provisions of Stage 3 Water Conservation shall be rescinded upon compliance with the year-to-date at month-end production goal for the first two months of the subsequent water year. Water

users of Cal-Am when that water system derives water from the MPWRS shall revert to Stage 1 Water Conservation.

- (a) Regulatory compliance during a period of Stage 4 Water Rationing shall not cause a sunset of this provision.

D. Notice. Cal-Am shall provide notice of mandatory water conservation with each bill prepared for water users of the Cal-Am system

E. Cal-Am Excessive Use Rates. Section 12-E requires approval by the Public Utilities Commission (PUC) prior to implementation.

1. Cal-Am shall use the ECU factor of each water user for computation of the base water rate block and the related base use.
2. Excessive use rates shall be applied to water use over 150 percent of the base use.
3. Excessive use rates shall be established by multiplying the base block rate of rate blocks 4 and 5 of Cal-Am's per-capita-based rate tariff by 400 percent. The difference between the base rate for rate block 4 and 5, and the 400 percent excessive use rate shall be the actual excessive use rate and shall be designated separately from the standard water rate billing.
4. In the event that excessive use rates are not authorized by the California Public Utilities Commission, the base use shall become a base ration and use above the base rate shall be considered non-essential water use.

F. Cal-Am Use Prior to PUC Approval of Excessive Use Rates.

1. Upon implementation of Stage 3 Water Conservation, the District shall consider water use above the Cal-Am base rate to be non-essential water use subject to enforcement under Rule 171 (Water Waste Fees).
2. Cal-Am shall provide monthly information with the water bill showing the responsible party's compliance with the base rate.

G. The provisions of paragraphs A through F, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 163 (Stage 3 Water Conservation).

Section 13: **Stage 4 Water Rationing**

A. Stage 4 Water Rationing is defined as the fourth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 15 percent reduction goal from system production limits for non-

Cal-Am water users. Fifteen percent reductions in the Cal-Am system are achieved through Stage 3 Water Conservation.

B. Trigger.

1. Water Supply Limitation Trigger. Stage 4 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 4 Water Rationing shall become effective on July 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than 31,580 acre-feet and greater than 24,750 acre-feet. If total usable storage is equal to or greater than 31,580 acre-feet on May 1, no water rationing shall be imposed.
2. Emergency Trigger. Stage 4 Water Rationing shall be implemented upon Resolution of the Board of Directors when there is need for an immediate water use reduction requirement in response to an unexpected water supply shortage.

C. Requirements previously imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan shall remain in force. Requirements may be modified or superseded by actions taken in this or future stages of the Expanded Water Conservation and Standby Rationing Plan.

D. The provisions of Stage 3 Water Conservation shall be implemented for all water users of the Cal-Am water distribution system, unless specifically exempt from Stage 4 Water Rationing by action of the Board of Directors.

E. Sunset of Stage 4 Water Rationing.

1. Water Supply Availability. Stage 4 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than 31,580 acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 4 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than 31,580 acre-feet on January 1.
2. In the event total usable storage is greater than 31,580 acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 4 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

3. Emergency. Upon correction of a water supply limitation caused by an emergency, Stage 4 Water Rationing shall sunset without action by the Board.

F. Notice.

1. Upon direction of the General Manager, all water distribution system operators affected by Stage 4 Water Rationing shall notify water users of the system that reductions in water use are necessary and that stricter water rationing may be imminent. Water distribution system operators shall ensure that notices provided or required by the District shall be distributed to the system water users.
2. As appropriate, Cal-Am shall notify its water users that excessive use rates will be imposed upon the effective date of Stage 4 Water Rationing.
3. The District shall contact all water users of private wells not supplying water to a distribution system within the MPWRS. Contact shall be via first class mail and shall explain the restrictions placed on the use of private wells during Stage 4 Water Rationing and shall provide and/or request additional information from the private well owner as deemed necessary for the efficient operation of the program.

- G. The provisions of paragraphs A through F, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 164 (Stage 4 Water Rationing).

Section 14: Stage 5 Water Rationing

- A. Stage 5 Water Rationing is defined as the fifth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 20 percent reduction goal from the system production limit. Reductions are achieved by water use cutbacks by user category and by per-capita water rations and a moratorium on water permits that intensify water use.

B. Implementation.

1. Water Supply Limitation Trigger. Stage 5 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 5 Water Rationing shall become effective on June 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than 24,750 acre-feet and greater than 17,720 acre-feet. If total usable storage is equal to or greater than 31,580 acre-feet on May 1, no water rationing shall be imposed.
 - a. The General Manager may delay implementation of Stage 5 Water Rationing to ensure adequate operation of the program. Delays authorized by the General Manager shall not exceed 90 days.

2. Emergency. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 20 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 5 Water Rationing.

1. Water Supply Availability. Stage 5 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than 24,750 acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 5 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than 31,580 acre-feet on January 1.
2. In the event total usable storage is greater than 31,580 acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 5 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.
 - a. If Cal-Am production exceeds the year-to-date at months end production goal as shown in Rule 162, Table 1, Cal-Am water users shall revert to Stage 2 Water Conservation.

D. Affected Water Users. Stage 5 Water Rationing shall apply to all water users within the MPWRS. As necessary to ensure adequate water supplies, the Board of Directors may act within its discretion to authorize activation of Stage 5 Water Rationing within one or more water distribution systems in the District.

E. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 4 Water Conservation shall remain in force. Requirements may be modified or superseded by actions taken in this or future stages of the Expanded Water Conservation and Standby Rationing Plan.

F. Moratorium. On October 1 following implementation of Stage 5 Water Rationing, the District shall suspend the issuance of water permits associated with an intensification in use. This provision shall not suspend the issuance of water permits that utilize public or private Water Use Credits or where issuance of a permit is required by prior agreement of the District.

G. Reduction Goal. Stage 5 Water Rationing achieves water use reductions of 20 percent of the Cal-Am and non-Cal-Am system production limits in each user category as follows:

Residential single-family and multi-family, commercial/industrial, public authority, golf course, "other," non-revenue metered uses, and reclaimed water users.

H. Notice.

1. Cal-Am shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the Cal-Am system via first-class mail at least thirty (30) days before the first day of rationing. Further, Cal-Am shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, Cal-Am shall provide each responsible party with a survey form upon request.
2. All water distribution system operators effected by Stage 5 Water Rationing shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the water distribution system via first-class mail at least thirty (30) days before the first day of rationing. Further, the distribution system operator shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, the water distribution system operator shall provide each responsible party with a survey form at least once each calendar year. Water distribution system operators shall ensure that notices provided or required by the District shall be distributed to the system water users.
3. The District shall contact all water users of private wells not supplying water to a distribution system within the MPWRS at least thirty (30) days before the first day of Stage 5 Water Rationing. Contact shall be via first class mail and shall explain the restrictions placed on the use of private wells during Stage 5 Water Rationing and shall provide and/or request additional information from the private well owner as deemed necessary for the efficient operation of the program.

I. Rations by Category. Water rations shall be determined by user category. Each water user within the Monterey Peninsula Water Resources System shall be classified in one of the following groups: Residential Single-Family and Multi-Family, Commercial/Industrial, Public Authority, Golf Course, "Other," Non-Revenue Metered Use, and Reclaimed Water Users.

J. Reduced Annual Cal-Am Annual Production During Stage 5 Water Rationing. The Cal-Am annual production limit shall be reduced by 20 percent during Stage 5 Water Rationing. The resulting production limit shall be further reduced by a water rationing contingency determined by the Board. Seven (7) percent of the remainder shall be the maximum Cal-Am unaccounted for water use ration. The remaining water shall be the Cal-Am annual production limit for all user categories.

K. Non-Cal-Am Annual Production Limits During Stage 5 Water Rationing. Available production for other water distribution systems subject to Stage 5 Water Rationing shall be

determined using the same methodology as for Cal-Am without including a deduction for unaccounted for water uses. The non-Cal-Am annual production limit for the Monterey Peninsula Water Resources System shall be used as the maximum production limit.

- L. Establishing the Rations. Rations for each user category shall be determined by the General Manager by dividing the reduced available production by the percentage of use. The percentage of use for each user group shall be determined by the most recent unrationed reporting year (July 1 through June 30) data provided by Cal-Am for water users of that portion of Cal-Am that derives water from the MPWRS, and by data provided by the District from its annual well reporting program for non-Cal-Am distribution systems.
1. Residential Water Users. Each residential water user either served by a water meter reported as "single-family residential" by the water distribution system or served by a private well shall have an equal portion of the water available to the single-family residential category based upon the number of residents reported on the survey form.
 2. Multi-Family Residential Water Users. Each multi-family residential water user either served by a water meter reported as "multi-family residential" by the water distribution system or served by a private well shall have an equal portion of the water available to the multi-family residential category based upon the number of residents reported on the survey form with the following exception:
 - a. Multi-family residential sites with common laundry facilities on a separate water meter shall receive a one unit water ration for each dwelling unit that has access to the facility. Each dwelling unit located on the multi-family residential site that has access to the common laundry facility shall have the dwelling unit ration reduced by one unit of water.
 3. Commercial/Industrial Water Users. Each commercial/industrial water user either served by a water meter reported as "commercial" or "industrial" by the water distribution system shall have a base ration determined by applying the current commercial water use factors.
 - a. Mixed Use Water Users. Mixed use water users shall be classified as commercial uses for the purposes of this program.
 4. Public Authority. Public Authority Uses shall be rationed by jurisdiction. Each Public Authority water user may combine multiple accounts or connections when the accounts are located within one jurisdiction.
 5. Golf Courses. Golf Courses supplied water exclusively by the Cal-Am or non-Cal-Am water distribution systems or wells may be rationed individually or, upon request to the General Manager, as a group.
 6. Other. Water users utilizing portable water meters or hydrant meters shall be required to

employ Best Management Practices. Cal-Am shall be required to report monthly to the District the location and responsible party for all portable water meters and the amount of use from those meters. As deemed necessary to achieve the imposed reduction in use, the District may condition use of temporary connections.

7. Non-Revenue Metered Users. Non-Revenue Metered Uses shall be rationed as a group with the following exception:
 - a. Irrigation required by the Mitigation Program adopted when the Water Allocation Program Environmental Impact Report was adopted in 1990, and as required by SWRCB Order No. WR 95-10, shall not be subject to reductions in use. Required irrigation of the riparian corridor shall be identified and reported separately from other non-revenue metered uses.
8. Non-Cal-Am Wells. Regulations for rationing non-Cal-Am wells located within the MPWRS that are not supplying water to a distribution system shall be considered by the Board prior to implementation of Stage 5 Water Rationing.
9. Reclaimed Water Users. Golf courses and open spaces receiving water from the CAWD/PBCSD Wastewater Reclamation Project shall be subject to Stages 5 Water Rationing and higher as a separate group due to contractual agreements with the District. Under the agreements, the owners of the Reclamation Project golf courses and open spaces shall have the irrigation requirements of the courses and open spaces satisfied to the same degree as any non-Reclamation Project golf course or open space which derive their source of supply from the Cal-Am system. The irrigation requirements of the Reclamation Project courses and open spaces will be determined based on the most-recent non-rationed four-year average water demand for each of the reclaimed water users. The irrigation requirements shall include both reclaimed and potable water. The use of reclaimed water, when available, shall not be restricted by this requirement.

Each reclaimed water user shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of reclaimed water that is available is less than the quantity of water that the reclaimed water user is entitled to, potable water shall be provided to make up the difference and satisfy the reclaimed water user to the same degree that non-Reclamation Project golf course and open space users are being satisfied.

The District shall ensure that the water provided during reduction water rationing is of adequate quality. If the quality does not satisfy the contractual agreement, potable water sufficient to improve the quality of the reclaimed water shall be provided.

- M. The provisions of paragraphs A through L, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 165 (Stage 5 Water Rationing).

Section 15: **Stage 6 Water Rationing**

- A. Stage 6 Water Rationing is defined as the sixth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 35 percent reduction goal from system production limits. Reductions are achieved by water use cutbacks by user category and by per-capita water rations and a moratorium on water permits that utilize water credits.
- B. Implementation.
1. Water Supply Limitation Trigger. Stage 6 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 6 Water Rationing shall become effective on June 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than 17,720 acre-feet and greater than 10,890 acre-feet. If total usable storage is equal to or greater than 31,580 acre-feet on May 1, no water rationing shall be imposed.
 2. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 35 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.
- C. Sunset of Stage 6 Water Rationing.
1. Water Supply Availability. Stage 6 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than 17,720 acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 6 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than 31,580 acre-feet on January 1.
 2. In the event total usable storage is greater than 31,580 acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 6 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.
- D. Affected Water Users. Stage 6 Water Rationing shall apply to all water users within the Monterey Peninsula Water Resources System. As necessary to ensure adequate water supplies, the Board of Directors may act within its discretion to authorize activation of Stage 6 Water Rationing within one or more water distribution systems in the District.

- E. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 5 Water Rationing shall remain in force. Requirements may be modified or superseded by actions taken in this or future stages of the Expanded Water Conservation and Standby Rationing Plan.
- F. Moratorium. On October 1 following implementation of Stage 6 Water Rationing, the District shall suspend the issuance of water permits that utilize a public or private Water Use Credit.
- G. Reduction Goal. Stage 6 Water Rationing achieves water use reductions of 35 percent of the Cal-Am and non-Cal-Am system production limits in each user category as follows: Residential single-family and multi-family, commercial/industrial, public authority, golf course, "other," non-revenue metered uses, and reclaimed water users.
- H. Notice.
1. Cal-Am shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the Cal-Am system via first-class mail at least thirty (30) days before the first day of rationing. Further, Cal-Am shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, Cal-Am shall provide each responsible party with a survey form upon request.
 2. All water distribution system operators effected by Stage 6 Water Rationing shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the water distribution system via first-class mail at least thirty (30) days before the first day of rationing. Further, the distribution system operator shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, the water distribution system operator shall provide each responsible party with a survey form at least once each calendar year. Water distribution system operators shall ensure that notices provided or required by the District shall be distributed to the system water users.
 3. The District shall contact all water users of private wells not supplying water to a distribution system within the MPWRS at least thirty (30) days before the first day of Stage 6 Water Rationing. Contact shall be via first class mail and shall explain the restrictions placed on the use of private wells during Stage 6 Water Rationing and shall provide and/or request additional information from the private well owner as deemed necessary for the efficient operation of the program.
- I. Rations by Category. Water rations shall be determined by user category. Each water user within the Monterey Peninsula Water Resources System shall be classified in one of the following groups: Residential Single-Family and Multi-Family, Commercial/Industrial, Public Authority, Golf Course, "Other," Non-Revenue Metered Use, and Reclaimed Water Users.

- J. Reduced Annual Cal-Am Annual Production During Stage 6 Water Rationing. The Cal-Am annual production limit shall be reduced by 35 percent during Stage 6 Water Rationing. The resulting production limit shall be further reduced by a water rationing contingency determined by the Board. Seven (7) percent of the remainder shall be the maximum Cal-Am unaccounted for water use ration. The remaining water shall be the Cal-Am annual production limit for all user categories.
- K. Non-Cal-Am Annual Production Limits During Stage 6 Water Rationing. Available production for other water distribution systems subject to Stage 6 Water Rationing shall be determined using the same methodology as for Cal-Am without including a deduction for unaccounted for water uses. The non-Cal-Am annual production limit for the Monterey Peninsula Water Resources System shall be used as the maximum production limit.
- L. Establishing the Rations. Rations for each user category shall be determined by the General Manager by dividing the reduced available production by the percentage of use and by taking into consideration residential water needs to ensure health, safety and welfare. The percentage of use for each user group shall be determined by the most recent unrationed reporting year (July 1 through June 30) data provided by Cal-Am for water users of that portion of Cal-Am that derives water from the MPWRS, and by data provided by the District from its annual well reporting program for non-Cal-Am distribution systems.
1. All water users shall be rationed by user category as outlined in Rule 165 (Stage 5 Water Rationing).
- M. The Board shall consider adopting restrictions on non-residential outdoor water use that may include any or all of the following: Limit outdoor watering to one day per week, one day every other week, or prohibit outdoor irrigation with water from the effected water resource system(s); prohibit irrigation of non-turf areas with water from the affected water resource system(s); reduce golf course irrigation from the effected water distribution system(s) to a percentage of the amount required to water tees, greens and landing areas only. The use of reclaimed water, when available, shall not be restricted by this requirement.
- N. Elimination or modification of commercial/industrial variances for Best Management Practices. The General Manager shall be authorized to require a percentage reduction of all commercial/industrial water users granted a variance for complying with BMPs for the type of use. The amount of the percentage reduction shall be determined by the General Manager following review of the success of commercial/industrial rationing during Stage 5 Water Rationing prior to Stage 6 Water Rationing.
- O. All water users shall cease operation and maintenance of all ornamental water uses (fountains, ponds, etc.) that use water from the effected water supply system(s). Ornamental water uses supplied with water from other sources shall clearly display information about the source of water on or immediately adjacent to the use;

- P. Prohibition on Use of Water for Dust Control. The use of water from the Monterey Peninsula Water Resources System shall be prohibited for dust control purposes, except by prior approval of the General Manager. Decisions of the General Manager shall be final.
- Q. The provisions of paragraphs A through P, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 166 (Stage 6 Water Rationing).

Section 16: Stage 7 Water Rationing

- A. Stage 7 Water Rationing is defined as the seventh stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 50 percent reduction goal from system production limits. Reductions are achieved by water use cutbacks by user category and by per-capita water rations and a moratorium on water permits that utilize water credits.
- B. Implementation.
1. Water Supply Limitation Trigger. Stage 7 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 7 Water Rationing shall become effective on July 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than 10,890 acre-feet. If total usable storage is equal to or greater than 31,580 acre-feet on May 1, no water rationing shall be imposed.
 2. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 50 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.
- C. Sunset of Stage 7 Water Rationing.
1. Water Supply Availability. Stage 7 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than 10,890 acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 7 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than 31,580 acre-feet on January 1.
 2. In the event total usable storage is greater than 31,580 acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 7 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal

specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

- D. Affected Water Users. Stage 7 Water Rationing shall apply to all water users within the Monterey Peninsula Water Resources System. As necessary to ensure adequate water supplies, the Board of Directors may act within its discretion to authorize activation of Stage 7 Water Rationing within one or more water distribution systems in the District.
- E. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 6 Water Rationing shall remain in force. Requirements may be modified or superseded by actions taken in this or future stages of the Expanded Water Conservation and Standby Rationing Plan.
- F. Reduction Goal. Stage 7 Water Rationing achieves water use reductions of 50 percent of the Cal-Am and non-Cal-Am system production limits in each user category as follows: Residential single-family and multi-family, commercial/industrial, public authority, golf course, "other," non-revenue metered uses, and reclaimed water users.
- G. Notice.
 - 1. Cal-Am shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the Cal-Am system via first-class mail at least thirty (30) days before the first day of rationing. Further, Cal-Am shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, Cal-Am shall provide each responsible party with a survey form upon request.
 - 2. All water distribution system operators effected by Stage 7 Water Rationing shall provide written notice of mandatory water rationing to every residence and to every non-residential business or water user within the water distribution system via first-class mail at least thirty (30) days before the first day of rationing. Further, the distribution system operator shall send monthly reminders of water rationing in the water bill along with information showing the water ration and the quantity of the water ration consumed by the responsible party. Finally, the water distribution system operator shall provide each responsible party with a survey form at least once each calendar year. Water distribution system operators shall ensure that notices provided or required by the District shall be distributed to the system water users.
 - 3. The District shall contact all water users of private wells not supplying water to a distribution system within the MPWRS at least thirty (30) days before the first day of Stage 7 Water Rationing. Contact shall be via first class mail and shall explain the restrictions placed on the use of private wells during Stage 7 Water Rationing and shall provide and/or request additional information from the private well owner as deemed necessary for the efficient operation of the program.

- H. Rations by Category. Water rations shall be determined by user category. Each water user within the Monterey Peninsula Water Resources System shall be classified in one of the following groups: Residential Single-Family and Multi-Family, Commercial/Industrial, Public Authority, Golf Course, "Other," Non-Revenue Metered Use, and Reclaimed Water Users.
- I. Reduced Annual Cal-Am Annual Production During Stage 7 Water Rationing. The Cal-Am annual production limit shall be reduced by 50 percent during Stage 7 Water Rationing. The resulting production limit shall be further reduced by a water rationing contingency determined by the Board. Seven (7) percent of the remainder shall be the maximum Cal-Am unaccounted for water use ration. The remaining water shall be the Cal-Am annual production limit for all user categories.
- J. Non-Cal-Am Annual Production Limits During Stage 7 Water Rationing. Available production for other water distribution systems subject to Stage 7 Water Rationing shall be determined using the same methodology as for Cal-Am without including a deduction for unaccounted for water uses. The non-Cal-Am annual production limit for the Monterey Peninsula Water Resources System shall be used as the maximum production limit.
- K. Establishing the Rations. Rations for each user category shall be determined by the General Manager by dividing the reduced available production by the percentage of use and by taking into consideration residential water needs to ensure health, safety and welfare. The percentage of use for each user group shall be determined by the most recent unrationed reporting year (July 1 through June 30) data provided by Cal-Am for water users of the Cal-Am distribution system that derives water from the MPWRS, and by data provided by the District from its annual well reporting program for non-Cal-Am distribution systems.
1. All water users shall be rationed by user category as outlined in Rule 165 (Stage 5 Water Rationing).
- L. The Board shall reconsider adopting restrictions on non-residential outdoor water use that may include any or all of the following not adopted during Stage 6 Water Rationing: Limit outdoor watering to one day per week, one day every other week, or prohibit outdoor irrigation with water from the effected water resource system(s); prohibit irrigation of non-turf areas with water from the effected water resource system(s); reduce golf course irrigation from the effected water distribution system(s) to a percentage of the amount required to water tees, greens and landing areas only. The use of reclaimed water, when available, shall not be restricted by this requirement.
- M. Elimination or modification of commercial/industrial variances for Best Management Practices. The General Manager shall be authorized to require a percentage reduction of all commercial/industrial water users granted a variance for complying with BMPs for the type of use. The amount of the percentage reduction shall be determined by the General Manager following review of the success of commercial/industrial rationing during Stage 6 Water Rationing prior to Stage 7 Water Rationing.

- N. Prohibition On The Use of Portable Water Meters and Hydrant Meters. Water users utilizing portable water meters or hydrant meters shall be required to cease use of water from the effected water supply system(s). Each water user reporting as "other" by the distribution system shall be notified by the distribution system operator of this requirement. Portable water meters shall be returned to the water company at least 30 days before the implementation of Stage 7 Water Rationing.
- O. The provisions of paragraphs A through N, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 167 (Stage 7 Water Rationing).

Section 17: **Water Banks**

- A. Water banks shall be available to each water user during Stages 5 through 7 Water Rationing. A water bank shall allow each water user to accrue the unused portion of a monthly ration for use in the current calendar year.
- B. Water banks shall be reset to zero on January 1 of each year. Ten (10) percent of the remaining water bank on December 31 shall be credited to the following year's water bank for three months to allow the establishment of a new bank.
- C. On April 1, each water bank shall be reduced by the amount of banked water carried over on January 1. Water banks may not carry less than a zero balance.
- D. The provisions paragraphs A through C, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 168 (Water Banks).

Section 18: **Water Waste Fees**

- A. Each occurrence of Water Waste or Non-Essential Water Use, as those terms are defined by Rule No. 11 (Definitions), which continues after the water user has had reasonable notice to cease and desist that type of water use shall constitute a flagrant occurrence.
- B. A \$50 fee shall be assessed for each flagrant occurrence of Water Waste or Non-Essential Water Use
- C. A \$150 fee shall be imposed for each subsequent occurrence (including multiple occurrences) of Water Waste or Non-Essential Water Use which occurs within 18 months of the first occurrence.
- D. All fees shall be paid within 30 days.
- E. Within the 30 day period, a water user may seek waiver or forgiveness of all or part of the Water Waste fees on the basis of hardship. The water user must provide the District with a written explanation as to why the fees should not be collected. Staff shall be authorized to

determine whether or not fees should be waived in full or in part, with the final decision resting with the General Manager.

- F. After 30 days, fees which have not been paid or waived may result in a lien being placed on the property served by the water account.
- G. Repeated occurrences or Water Waste or Non-Essential Water Use, which continue or occur after the water user has had a reasonable notice to cease and desist that type of water use, or which continues or occurs after the water user has had a reasonable opportunity to cure any defect causing that type of water use, shall provide cause for the placement of a flow restrictor within the water line or water meter.
- H. The provisions of paragraphs A through G, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 171 (Water Waste Fees).

Section 19: Variance

- A. The General Manager shall assign additional water beyond the ration established in Stage 4 Water Rationing through Stage 7 Water Rationing in the following circumstances upon submittal of the appropriate variance request form and fees.
- B. The following variances shall be considered for additional water during Stages 4 through 7 Water Rationing.
 - 1. Medical and/or sanitation needs certified by a doctor;
 - 2. Hospital and/or health care facilities that have achieved all Best Management Practices for those uses;
 - 3. Drinking water for large livestock;
 - 4. Commercial/Industrial users that can demonstrate compliance with all BMPs appropriate for the type of use and where there is minimal exterior water use on the water meter or water supply serving the use;
 - 5. Leaks, when an invoice is provided by a licensed plumber or contractor;
 - 6. Commercial laundromats with signs advising full loads only;
 - 7. Business in a home on a case-by-case basis;
 - 8. Riparian irrigation when required as a condition of a river bank restoration permit issued by the District or as a condition of a riverbank erosion protection permit issued by the District.

9. Emergency, extreme, or unusual situations on a case-by-case basis;
- C. No Variance. The following categories of water use shall not qualify for special consideration under the provisions of this regulation:
1. Visitors other than those occupying short-term residential housing as defined in Rule 11 (Definitions) when the property owner has submitted a completed survey form with the applicable information about the occupancy of the site;
 2. Irrigation, other than variances allowed by Section 19-B of this regulation.
 3. Filling spas, ponds, fountains, etc.;
 4. Long-term leaks that are not repaired after reasonable notice.
- D. Waiver of Excess Fees by Variance Application. Any qualifying water user may seek to have all or part of the water waste fee for excess water use waived or forgiven through the Rationing Variance process set forth in this Rule. Any water user may seek relief from the water waste fee upon substantial evidence that the excess water use was beyond the user's control, and was not reasonably correctable in a timely fashion due to special and unique circumstances. Due diligence must be shown to forgive any water waste caused by a leak; under no circumstance shall a leak justify the forgiveness of an excess use fee for more than three billing periods. The applicant shall further demonstrate that all reasonable means have been taken to conserve water and minimize future water use.
1. The General Manager or his agent may grant any application to waive water waste fees upon submittal of the appropriate evidence to warrant a variance. All applicants for variance shall submit the appropriate Variance Request Form and processing fee of \$60. Any action to waive a water waste fee shall be recorded in writing and include a written explanation to substantiate and justify the waiver;
 2. Although inspections shall not be required in all cases, District staff shall use spot or random inspections as necessary to verify an applicant's eligibility for a water rationing variance.
 3. Each person making written application for a variance shall be notified in writing of the disposition of their application. Decisions of the General Manager are final.
- E. The provisions of paragraphs A, B, C and D of this Section shall be incorporated into the District Rules and Regulations as Rule 169 (Water Rationing Variance).

Section 20: Water Rationing Enforcement

A. Enforcement During Stages 4 through 7 Water Rationing.

1. **Courtesy Notice.** For the first instance of excess water use beyond the ration in Stages 4 through 7 Water Rationing, a water user shall be given written notice by the water system operator of the excess use and shall be notified that such violation constitutes water waste and a water waste fee of \$50 shall be collected in the event the water user again exceeds that user's water ration during any future billing cycle under Stages 4 through 7 Water Rationing. If the water user complies with all water rationing and water waste and non-essential water use requirements during the next month following the first instance of excess use, the excess use fee shall be deferred.

If the water user again exceeds that user's water ration during any following month, the water waste fee of \$50 shall be imposed immediately.

2. **Second Offense.** Upon the second occurrence of excess water use (including any prior excess water use during any prior stage) a water user shall be charged with water waste and assessed a fee of \$150 for the second offense, plus the previously deferred \$50 first offense fee, by the District or its agent.
3. **Third Offense.**
 - a. **Stage 5, 6 and 7 Water Rationing.** A third occurrence of excess water use (including any prior excess water use during any prior stage) shall result in an excess water use charge equivalent to the Cal-Am per unit water charge at the water user's level of use multiplied by the number of units over a water ration, plus \$150 as provided in Rule 171 (Water Waste Fees). A third occurrence of excess water use shall provide cause for the installation of a flow restrictor in the water meter or water supply providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 2 Water Conservation or a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.
4. **Fourth Offense.** A fourth occurrence of water use in excess of the water ration shall result in fees and charges listed for a third offense and shall result in the installation of a flow restrictor by the system operator in the water meter or water supply providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 3 Water conservation or to a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.

- B. Flow Restrictor Exemption. Exemptions to the installation of a flow restrictor as a means to enforce the water ration shall occur when there are provable risks to the health, safety and/or welfare of the water user. The following shall apply in the event a flow restrictor cannot be installed in the water meter or water supply providing water to a property due to health, safety or welfare requirements:
1. Water Meters Serving Three or More Multi-Family Dwelling Units. The responsible party shall be charged \$150 times the number of dwelling units located on the meter during each month in which a violation of the water ration occurs. The responsible party shall be liable for payment of all excess water use charges.
- C. All notices and assessments of water waste and/or excess water use charges made by a water distribution system operator shall be reported to the District.
- D. The provisions of paragraphs A, B and C of this Section shall be incorporated into the District Rules and Regulations as Rule 175 (Water Rationing Enforcement).

Section 21: Regulation of Well Owners/Operators and Extractors

- A. During a water supply emergency, each owner/operator or extractor of a private water well or other water-gathering facility shall comply with the provisions of this regulation, as they relate to such well.
- B. The provisions of paragraph A of this Section shall be incorporated into the District Rules and Regulations as Rule 174 (Regulation of Well Owners/Operators and Extractors).

Section 22: Funding

- A. All costs associated with the administration of the Expanded Water Conservation and Standby Rationing Plan for water users of Cal-Am shall be paid by Cal-Am. All charges collected by Cal-Am shall be used to underwrite costs of administration, enforcement, education, and other necessary activities relating to the water supply emergency of both the District and Cal-Am. Charges for costs incurred under the Expanded Water Conservation and Standby Rationing Plan shall be paid to cover the actual costs of administration, enforcement, education, and other activities relating to the water supply emergency.
- B. Administration of water rationing for water users not supplied by Cal-Am shall be paid by the water user.

Section 23: Modification of P.U.C. Rationing Standards

The General Manager shall take action as necessary to ensure that rules of the California Public Utilities Commission enable any water distribution system to enforce or collect fees, charges, surcharges pursuant to the rationing standards set forth by this ordinance, including but not limited to water restrictor installation and, if warranted, service disconnection.

Section 24: **Deletion of Rule 83 (Water Waste Fees)**

Rule 83 (Water Waste Fees) shall be deleted in its entirety. In its place, Rule 171 (Water Waste Fees) shall be enacted by this ordinance.

Section 25: **Deletion of Rule 104 (Mobile Distribution Systems During A Water Supply Emergency)**

Rule 104 (Mobile Distribution Systems During a Water Supply Emergency) shall be deleted in its entirety. In its place, Rule 173 (Regulation of Mobile Distribution Systems During A Water Supply Emergency) shall be enacted by this ordinance.

Section 26: **Renumbering of Rule 107 (Regulation of Well Owners/Operators and Extractors)**

Rule 107 (Regulation of Well Owners/Operators and Extractors) shall be deleted in its entirety and renumbered as Rule 174 (Regulation of Well Owners/Operators and Extractors).

Section 27: **Deletion of Rule 112 (Administration of Rationing Penalties)**

Rule 112 (Administration of Rationing Penalties) shall be deleted in its entirety. In its place, Rule 175 (Water Rationing Enforcement) shall be enacted by this ordinance.

Section 28: **Publication**

The provisions of this ordinance shall cause the republishing of the District Rules and Regulations of the Monterey Peninsula Water Management District.

Section 29: **Effective Date**

The provisions of this ordinance shall take effect at 12:01 a.m., March 1, 1999.

Section 30: **Sunset**

The provisions of this ordinance shall be reviewed by the Board of Directors every five years at the January meeting, beginning with the first review in January 2004. Upon the modification of SWRCB Order No. 95-10, or at least every five years, the Board of Directors shall hold a public hearing to consider whether or not a state of water supply emergency continues, and whether or not the provisions of this ordinance shall be continued, modified, or rescinded.

Section 31: **Severability**

If any section, sub-section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases may be declared invalid.

On motion of Director Ernst, and second by Director Edwards, the foregoing Ordinance is duly passed to print the 28th day of January 1999, by the following vote:

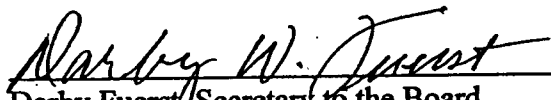
AYES: Directors Chesshire, Ely, Ernst, Edwards, Hughes, Pendergrass

NAYS: None

ABSENT: Director Potter

I, Darby Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is an ordinance duly adopted on the 28th day of January, 1999.

Witness my hand and seal of the Board of Directors this third day of February, 1999.


Darby Fuerst, Secretary to the Board

**FINAL
ORDINANCE 119
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING DISTRICT RULES TO MODIFY THE
EXPANDED WATER CONSERVATION AND
STANDBY WATER RATIONING PLAN**

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. This Ordinance is enacted to respond to present and threatened water emergencies, as provided by Section 332 of the District Law. Water emergencies addressed by this ordinance are created by legal circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.
4. State Water Resources Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water historically supplied to Cal-Am users. The SWRCB has set specific goals to reduce Cal-Am's water diversions from the Carmel River Basin.
5. Under SWRCB Order No. WR 95-10, Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent year until a major new water supply is in place to offset the illegal diversion.
6. Excessive water consumption in the winter and spring of 2004 necessitated an emergency request by Cal-Am to the California Public Utilities Commission (CPUC) to temporarily increase rates for water service to avoid SWRCB violations. Existing District rules did not include regulation for this consumption emergency.
7. Amendments to District Rules are necessary to address a water emergency caused when increased consumption would force diversions over the legal limits set by SWRCB Order WR 95-10, to reflect current diversion protocols based on subsequent SWRCB Orders, and to facilitate emergency conservation rate authority for Cal-Am with the CPUC.
8. This ordinance shall be reviewed and approved under the California Environmental Quality Act (CEQA) based upon a Negative Declaration.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the Expanded Water Conservation and Standby Rationing Plan Amendments for Water Consumption Emergency. This ordinance shall amend District Rules 11, 160, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, and 175.

Section Two: **Purpose**

This ordinance shall amend the permanent Rules and Regulations of the Water Management District to modify standards and procedures pertaining to water use restrictions for the Monterey Peninsula during present and future water supply emergencies. This ordinance is intended to maintain Cal-Am's water production from the Carmel River below the limits set by the SWRCB, to operate its system in accordance with the 2001 Conservation Agreement between Cal-Am and NOAA Fisheries and the San Clemente Reservoir Drawdown Project, and to respond to emergency situations that require immediate water use reductions.

Section Three: Amendment of Rule 160 (General Provisions)

District Rule 160 shall be amended by deleting the following provisions shown in strikeout text (strikeout).

RULE 160 **GENERAL PROVISIONS**

[NOTE: No changes are proposed to Sections A through H.]

- ~~I. Cal Am shall prepare an analysis of the impacts of each of the actions and conditions described in this ordinance, inclusive, on the revenues and expenditures of Cal Am, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments. A copy of the analysis shall be provided to the District.~~
- ~~J. Cal Am shall prepare a per capita based tariff rate design and submit this rate design to the California Public Utilities Commission for review and approval. A copy of the plan filed with the California Public Utilities Commission shall be provided to the District. This rate design shall include and be based on the following:~~
 - ~~Ø An accurate survey of water users who are served by the Cal Am water distribution system where that system derives water from the MPWRS;~~
 - ~~Ø An assumed Cal Am annual production value that does not exceed the amount of the water production goal set by the SWRCB;~~
 - ~~Ø Unaccounted for water use that does not exceed an average of seven (7) percent of total Cal Am production;~~
 - ~~Ø A fair weighting to differentiate residential from non-residential water uses based upon historic water use by that sector;~~
 - ~~Ø Factors to fairly differentiate small and large residential lots;~~
 - ~~Ø A methodology which provides an equal amount of water for each permanent resident;~~
 - ~~Ø A methodology which provides a fair quantity of water for each residential and non-residential use based upon current consumption factors and Best Management Practices;~~

~~Ø A mechanism to implement excessive use rates or accelerated rate increases during Stage 3 Water Conservation as a mechanism to discourage excessive water use;~~

~~Ø A statement regarding the confidentiality of information gathered pertaining to the number of residents on single family and multi family accounts.~~

Section Four: Amendment of Rule 162 (Stage 2 Water Conservation)

District Rule 162 shall be amended by deleting the following provisions shown in ~~strikeout~~ text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 162 STAGE 2 WATER CONSERVATION

- A. Stage 2 Water Conservation is defined as the second stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use from the MPWRS below regulatory constraints by requiring implementation of ~~Landscape w~~**Water b**Budgets for large irrigators of three acres or more, large residential water users and water users with dedicated landscape water meters.
- B. Stage 2 Water Conservation shall be enforced when Cal-Am production from the MPWRS has exceeded the year-to-date at month-end target as displayed in Table 1; and Cal Am ~~unaccounted for water uses are at or below an average of seven (7) percent for the most recent twelve month period.~~

~~Prior to implementation of Stage 2 Water Conservation, the General Manager shall review the Cal Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent, Cal Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses and shall immediately act on such plan. The General Manager shall have the authority to delay implementation of Stage 2 Water Conservation for one month to allow Cal Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month end target in the following month.~~

The monthly distribution of water production shown in Table 1 between sources in the Carmel River Basin and in the coastal subareas of the Seaside Groundwater Basin shall be approved by the Board of Directors as part of the Quarterly Water Supply Strategy and Budget process. The Board shall hold public hearings to consider the water supply budgets for Cal-Am's main system during the Board's regular meetings in September, December, March, and June, at which time the Board may modify Table 1 by Resolution.

**Table 1
REGULATORY WATER PRODUCTION TARGETS
FOR CALIFORNIA AMERICAN WATER MAIN SYSTEM FROM SOURCES
WITHIN THE MONTEREY PENINSULA WATER RESOURCES SYSTEM**

<i>Month</i>	<i>Monthly Target</i>	<i>Year-to-Date At Month-End Target</i>
<i>October</i>	<i>1,379</i>	<i>1,379</i>

<i>November</i>	<i>1,113</i>	<i>2,492</i>
<i>December</i>	<i>984</i>	<i>3,476</i>
<i>January</i>	<i>958</i>	<i>4,434</i>
<i>February</i>	<i>894</i>	<i>5,328</i>
<i>March</i>	<i>1,047</i>	<i>6,375</i>
<i>April</i>	<i>1,209</i>	<i>7,584</i>
<i>May</i>	<i>1,405</i>	<i>8,989</i>
<i>June</i>	<i>1,527</i>	<i>10,516</i>
<i>July</i>	<i>1,628</i>	<i>12,144</i>
<i>August</i>	<i>1,649</i>	<i>13,793</i>
<i>September</i>	<i>1,492</i>	<i>15,285</i>
<i>TOTAL</i>	<i>15,285</i>	

Table 1
REGULATORY WATER PRODUCTION TARGETS (AF)

Month	Carmel River Basin Trigger	Seaside Basin Target	Year-to-Date Production at Month- End Target
October	979	400	1,379
November	713	400	2,492
December	884	100	3,476
January	858	100	4,434
February	794	100	5,328
March	947	100	6,375
April	909	300	7,584
May	905	500	8,989
June	1,027	500	10,516
July	1,128	500	12,144
August	1,149	500	13,793
September	992	500	15,285
TOTAL	11,285	4,000	-

- C. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 1 Water Conservation shall remain in force. Requirements may be modified or superseded by actions taken in future stages of the Expanded Water Conservation and Standby Rationing Plan.
- D. Implementation of Landscape Water Budgets. All water users required to obtain a ~~Landscape w~~*Water b*~~Budget in Section 9-B under District Rule 172~~ are required to manage outdoor irrigation within the ~~Landscape w~~*Water b*~~Budget~~ assigned to the property.
- E. Water use in excess of the established ~~Landscape w~~*Water b*~~Budget~~ shall be considered Water Waste and shall be subject to ~~the Section 18 of this regulation~~ *District Rule 171*.

- F. Sunset of Stage 2 Water Conservation. Without further action of the Board of Directors, the provisions of Stage 2 Water Conservation shall be rescinded and revert to Stage 1 Water Conservation upon compliance with the year-to-date at month-end production goal for the first two *consecutive* months of *in* the subsequent water year.
- G. Notice. *Cal-Am shall provide an annual reminder notice to MPWRS users with Landscape Water Budgets to report modifications in landscaping which could alter an existing budget.*
- H. Monthly Consumption Reports. *During any Stage 2, 3, 4, 5, 6, or 7, Cal-Am shall provide the District with monthly consumption reports in a format approved by the District. Reports shall be provided within fifteen (15) days of the close of the preceding month.*

Section Five: Amendment of Rule 163 (Stage 3 Water Conservation)

District Rule 163 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (*bold face*).

RULE 163 STAGE 3 WATER CONSERVATION

- A. Stage 3 Water Conservation is defined as the third stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints. *It is triggered when the year-to-date at month-end production target for Cal-Am from the MPWRS is exceeded twice by the average of Cal-Am's year-to-date production from the MPWRS for each month during the October through March period or exceeded once by the average of Cal-Am's year-to-date production from the MPWRS for each month during the April through September period. It provides a procedure to enable emergency temporary increases in the upper block volume rates and requires increased action by Cal-Am to reduce unaccounted-for water and monthly reporting of actions taken. Stage 3 Water Conservation may also be triggered upon Resolution of the Board of Directors when there is a need for an immediate water use reduction in response to an unexpected water production increase.*

~~Prior to~~ *Upon* implementation of Stage 3 Water Conservation, ~~the General Manager shall review the Cal-Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent,~~ Cal-Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses *to seven (7) percent or less measured by the most recent twelve-month rolling average* and shall immediately act on such plan. *Cal-Am shall provide a progress report to the Board of Directors monthly until Stage 3 is sunset.* ~~The General Manager shall have the authority to delay implementation of Stage 3 Water Conservation for one month to allow Cal-Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month-end target in the following month.~~

- B. Regulatory Trigger. Stage 3 Water Conservation shall be enforced when *any of the following criteria has been met: 1) the average of Cal-Am's year-to-date production from the MPWRS for each month has exceeded the year-to-date at month-end production target for Cal-Am from the MPWRS as displayed in Table 1 for a second time during the*

period from October 1 through March 31 in any water year, or 2) the average of Cal-Am's year-to-date production from the MPWRS for each month has exceeded the year-to-date at month-end production target for Cal-Am from the MPWRS as displayed in Table 1 once during the period from April 1 through September 30 in any water year, or 3) a Resolution has been adopted by the Board in accord with Section C below and Cal-Am unaccounted for water uses in the MPWRS are at or below an average of seven percent for the most recent twelve-month period.

- C. Emergency Trigger.** *Stage 3 Water Conservation shall be implemented upon Resolution of the Board of Directors when there is need for an immediate water use reduction requirement in response to an unexpected water production increase.*
- ~~C. D.~~ Sunset of Stage 3 Water Conservation.** Without further action by the Board of Directors, the provisions of Stage 3 Water Conservation shall be rescinded upon compliance with the year-to-date at month-end production goal for the first two *consecutive* months of *in* the subsequent water year. Water users of Cal-Am when that water system derives water from the MPWRS shall revert to Stage 1 Water Conservation.
 - (a) Regulatory compliance during a period of Stage 4 Water Rationing shall not cause a sunset of this provision.
- ~~D. E.~~ Notice.** Cal-Am shall provide notice of mandatory water conservation with each bill prepared for water users of the Cal-Am system.
- ~~E. Cal Am Excessive Use Rates.~~** ~~Section 12-E requires approval by the Public Utilities Commission (PUC) prior to implementation.~~
 - ~~1. Cal Am shall use the ECU factor of each water user for computation of the base water rate block and the related base use.~~
 - ~~2. Excessive use rates shall be applied to water use over 150 percent of the base use.~~
 - ~~3. Excessive use rates shall be established by multiplying the base block rate of rate blocks 4 and 5 of Cal Am's per capita-based rate tariff by 400 percent. The difference between the base rate for rate block 4 and 5, and the 400 percent excessive use rate shall be the actual excessive use rate and shall be designated separately from the standard water rate billing.~~
 - ~~4. In the event that excessive use rates are not authorized by the California Public Utilities Commission, the base use shall become a base ration and use above the base rate shall be considered non-essential water use.~~
- F. Cal-Am Emergency Use Rates.** *Cal-Am shall implement the California Public Utilities Commission (CPUC) approved emergency rate schedule to respond to Stage 3 water reduction requirements. Cal-Am shall file an Advice Letter with the CPUC to implement Emergency Use Rates, however, only after it has first met and conferred with the District at least five days in advance of that filing. The General Manager may waive this time period for good cause.*
- ~~F. Cal Am Use Prior to PUC Approval of Excessive Use Rates.~~**
 - ~~1. Upon implementation of Stage 3 Water Conservation, the District shall consider water use above the Cal Am base rate to be non-essential water use subject to~~

enforcement under Rule 171 (Water Waste Fees).

2. ~~Cal-Am shall provide monthly information with the water bill showing the responsible party's compliance with the base rate.~~

Section Six: Amendment of Rule 164 (Water Rationing)

District Rule 164 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 164 STAGE 4 WATER RATIONING

[NOTE: No changes are proposed to Section A.]

B. Trigger.

1. **Water Supply Limitation Trigger.** Stage 4 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 4 Water Rationing shall become effective on ~~July~~ ***June*** 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than ~~31,580~~ ***27,807*** acre-feet and greater than ~~24,750~~ ***21,802*** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on May 1, no water rationing shall be imposed.

[NOTE: No changes are proposed to Sections B 2 through D.]

E. Sunset of Stage 4 Water Rationing.

1. **Water Supply Availability.** Stage 4 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~31,580~~ ***27,807*** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 4 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ ***27,807*** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 4 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections E 3 or F.]

Section Seven: Amendment of Rule 165 (Stage 5 Water Rationing)

District Rule 165 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 165 **STAGE 5 WATER RATIONING**

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. Water Supply Limitation Trigger. Stage 5 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 5 Water Rationing shall become effective on June 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than ~~24,750~~ **21,802** acre-feet and greater than ~~17,720~~ **15,615** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ **27,807** acre-feet on May 1, no water rationing shall be imposed.
 - a.—The General Manager may delay implementation of Stage 5 Water Rationing to ensure adequate operation of the program. Delays authorized by the General Manager shall not exceed 90 days.
2. Emergency. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 20 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 5 Water Rationing.

1. Water Supply Availability. Stage 5 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~24,750~~ **21,802** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 5 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ **27,807** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ **27,807** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 5 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.
 - a.—If Cal-Am production exceeds the year-to-date at month's end production goal as shown in Rule 162, Table 1, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through K.]

- L. Establishing the Rations. Rations for each user category shall be determined by the General Manager by dividing the reduced available production by the percentage of use. The percentage of use for each user group shall be determined by the most recent unrationed reporting year (July 1 through June 30) data provided by Cal-Am for water users of that portion of Cal-Am that derives water from the MPWRS, and by data provided by the District from its annual well reporting program for non-Cal-Am distribution systems.

[NOTE: No changes are proposed to Sections L-1 through L-8.]

9. ***Reclaimed Recycled Water Users.*** ~~Golf courses and open spaces receiving water~~ ***Recycled Water Irrigation Areas*** receiving water from the CAWD/PBCSD Wastewater Reclamation Project shall be subject to Stages 5 Water Rationing and higher as a separate group ~~due to~~ ***for potable water used during an interruption or emergency, in accordance with*** contractual agreements with ~~between the District and the respective owners of the Recycled Water Irrigation Areas.~~ Under the agreements, the owners of the Reclamation Project golf courses and open spaces shall have the irrigation requirements of the courses and open spaces satisfied to the same degree as any non-Reclamation Project golf course or open space which derive their source of supply from the Cal-Am system. The irrigation requirements of the Reclamation Project courses and open spaces will be determined based on the most recent non-rationed four year average water demand for each of the reclaimed water users. The irrigation requirements shall include both reclaimed and potable water. The use of reclaimed water, when available, shall not be restricted by this requirement.

~~Each reclaimed water user shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of reclaimed water that is available is less than the quantity of water that the reclaimed water user is entitled to, potable water shall be provided to make up the difference and satisfy the reclaimed water user to the same degree that non-Reclamation Project golf course and open space users are being satisfied.~~

~~The District shall ensure that the water provided during reduction water rationing is of adequate quality. If the quality does not satisfy the contractual agreement, potable water sufficient to improve the quality of the reclaimed water shall be provided.~~

- a. ***Before Project Expansion Is Completed.*** ~~Under the agreements operative before the Project Expansion is Completed (as the capitalized terms are defined in Rule 23.5), the owners of the Recycled Water Irrigation Areas shall have the respective irrigation requirements thereof satisfied to the same degree as any non-Project golf course or open space which derive their source of supply from the Cal-Am system. The irrigation requirements of the Recycled Water Irrigation Areas will be determined based on the most-recent non-rationed four-year average irrigation water demand, including both Recycled Water and potable water, for each Recycled Water Irrigation Areas. The use of Recycled Water, when available in sufficient quantities to satisfy the irrigation requirements of the Recycled Water Irrigation Areas, shall not be restricted by this requirement.~~

Each Recycled Water Irrigation Area shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of Recycled Water that is available is less than the quantity of water that the Recycled Water Irrigation Area is entitled to, potable water shall be provided to make up the difference and satisfy the irrigation requirements of the Recycled Water Irrigation Area to the same degree that the irrigation requirements of non-Project golf course and open space users are being satisfied.

The District shall ensure that the water provided during water rationing is of adequate quality. If the quality does not satisfy the contractual agreement operative before the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), potable water shall be provided in sufficient quantities to improve the quality of the reclaimed water.

This Subsection L.9.a shall cease to be operative once the Project Expansion is deemed to be Completed (as the capitalized terms are defined in Rule 23.5), and shall thereafter be of no force or effect.

- b. *When Project Expansion Is Completed.* *Under the agreements operative once the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), the owners of the Recycled Water Irrigation Areas shall have the respective irrigation requirements thereof satisfied to the same degree as any non-Project golf course or open space which derives its source of supply from the Cal-Am system. The irrigation requirements of the Recycled Water Irrigation Areas will be determined based on the most-recent non-rationed four-year average irrigation water demand, including both Recycled Water and potable water, for each respective Recycled Water Irrigation Area.*

Each Recycled Water Irrigation Area shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of Recycled Water that is available is less than the quantity of water that the Recycled Water Irrigation Area is entitled to, potable water shall be provided to make up the difference and satisfy the irrigation requirements of the Recycled Water Irrigation Areas to the same degree that the irrigation requirements of non-Project golf course and open space users are being satisfied.

The preceding sentence shall not apply to the extent that the irrigation requirements of any Recycled Water Irrigation Area are met with water legally available to Buyer from any source other than the Carmel River System or the Seaside Groundwater Basin, including percolating ground water underlying Buyer's Property, to make up any such difference.

When Recycled Water (as defined in Rule 23.5) is available in sufficient quantities to satisfy the irrigation requirements of the Recycled Water Irrigation Areas, such irrigation shall not be subject to Stages 5 Water Rationing and higher, and neither potable water nor any water described in the preceding sentence (whether or not it is potable) shall be used for irrigation of the Recycled Water Irrigation Areas except to the extent allowed in the circumstances described in the next two sentences.

If there is an Interruption in Recycled Water deliveries to any Recycled Water Irrigation Area (as the capitalized terms are defined in Rule 23.5), the temporary use of potable water for irrigating each such Recycled Water Irrigation Area is authorized in the manner described in Rule 23.5, Subsection F.

If MPWMD has adopted an ordinance in response to any emergency caused by drought, or other threatened or existing water shortage pursuant to section 332 of the Monterey Peninsula Water Management Law, said ordinance shall prevail over contrary provisions of this Rule. Notwithstanding the preceding sentence, potable water shall be made available for irrigating tees and greens of the Recycled Water Irrigation Areas in sufficient quantities to maintain them in

good health and condition during an Interruption, without any limitation on the duration.

The District shall have no obligation to furnish potable water for irrigation of the Recycled Water Irrigation Areas except in the circumstances set forth above in this Subsection L.9.b.

If (1) an emergency or major disaster is declared by the President of the United States, or (2) a "state of war emergency," "state of emergency," or "local emergency," as those terms are respectively defined in Government Code section 8558, has been duly proclaimed pursuant to the California Emergency Services Act, with respect to all or any portion of the territory of MPWMD, the provisions of this Subsection L.9.b shall yield as necessary to respond to the conditions giving rise to the declaration or proclamation.

This Subsection L.9.b shall be of no force or effect until the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), and shall thereafter be operative and of full force and effect.

Section Eight: Amendment of Rule 166 (Stage 6 Water Rationing)

District Rule 166 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 166 STAGE 6 WATER RATIONING.

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. **Water Supply Limitation Trigger.** Stage 6 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 6 Water Rationing shall become effective on June 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than ~~47,720~~ ***15,615*** acre-feet and greater than ~~40,890~~ ***9,610*** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on May 1, no water rationing shall be imposed.
2. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 35 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 6 Water Rationing.

1. **Water Supply Availability.** Stage 6 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~47,720~~ ***15,615*** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 6 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on January 1.

2. In the event total usable storage is greater than ~~31,580~~ **27,807** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 6 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through P.]

Section Nine: **Amendment of Rule 167 (Stage 7 Water Rationing)**

District Rule 167 shall be amended by deleting the following provisions shown in ~~strikeout~~ text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 167 **STAGE 7 WATER RATIONING**

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. Water Supply Limitation Trigger. Stage 7 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 7 Water Rationing shall become effective on ~~July~~ ***June*** 1 or such earlier date as may be set by the Board following the District's May Board meeting if total usable storage in the MPWRS on May 1 is less than ~~40,890~~ ***9,610*** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on May 1, no water rationing shall be imposed.
2. Implementation shall also occur following urgency action by Resolution of the board of Directors declaring that an emergency situation exists and immediate 50 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 7 Water Rationing.

1. Water Supply Availability. Stage 7 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~40,890~~ ***9,610*** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 7 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ ***27,807*** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 7 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through N.]

Section Ten: Amendment to Rule 169 (Water Rationing Variance)

District Rule 169 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 169 WATER RATIONING VARIANCE

[NOTE: No changes are proposed to Sections A through C 1.]

C. **No Variance.** The following categories of water use shall not qualify for special consideration under the provisions of this regulation:

2. Irrigation, other than variances allowed by ~~Section 19-B~~ ***Rule 169*** of this regulation.

[NOTE: No changes are proposed to Sections C 3 through D.]

Section Eleven: Amendment of Rule 170 (Water User Survey)

District Rule 170 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 170 WATER USE SURVEY

[NOTE: No changes are proposed to Sections A through C.]

D. **Reporting.**

1. **Responsibility of Water User.**

- a. Each responsible party shall be responsible for accurately reporting the number of permanent residents in the dwelling unit or units or other information deemed appropriate for the effective operation of the program as requested on the survey form.
- b. Upon activation of a water meter, each responsible party shall complete a survey form.
 - i. **Cal-Am Water Users.** The completed survey form shall be submitted to Cal-Am by customers of that distribution system.
 - ii. **Non-Cal-Am Water Users.** The completed survey form shall be submitted to the District or its agent by all other distribution systems users required to complete a survey form during Stage 5 Water Rationing through Stage 7 Water Rationing.
- c. All responsible parties shall submit revised survey forms whenever there is a change in the number of permanent residents in a residential dwelling unit or whenever there is a change in a water user category in non-residential uses. Revised survey forms should be submitted to the appropriate party as indicated in ~~Section 8~~ ***Rule 170, D, 1, b.***
- d. Property owners of short-term residential housing rentals shall provide

information about the average number of annual occupants and the average rate of occupancy to the appropriate party as indicated in ~~Section 8~~ **Rule 170**, D, 1, b.

- e. 2. **Misrepresentation Violation.** Any water user intentionally over-reporting the number of permanent residents in a dwelling unit or other information pertinent to establishing a water ration during Stages 4, 5, 6 and 7 Water Rationing may be charged with a misdemeanor punishable as an infraction as provided by Section 256 of the Monterey Peninsula Water Management District Law, Statutes of 1981, Chapter 986. Violations carry a maximum penalty of up to \$250 for each offense. Each separate day or portion thereof during which any violation occurs or continues without a good-faith effort by the responsible water user to correct the violation, may be deemed to constitute a separate offense, and upon conviction thereof, may be separately punishable.
3. **Penalties for Misreporting.** In addition to any charge for misrepresenting information as provided in ~~Section 8~~ **Rule 170**, D-2, any or all of the following may be further imposed by the General Manager or his agent during Stages 4, 5, 6 and 7 Water Rationing where the violation occurs and continues without a good-faith effort by the responsible water user to correct the violation. Decisions pursuant to this rule are appealable under Rule 70 (Appeals).
 - a. Intentional misrepresentation may be considered a violation of the water waste provisions and shall subject the water user to a fee for water waste; and/or
 - b. Intentional misrepresentation may cause the loss of any water bank accrued and shall cause the responsible party to be ineligible to accrue a water bank for a period of sixty (60) months; and/or
 - c. Intentional misrepresentation may cause the assignment of a reduced water ration that may be as low as a ration for one person for a period of twelve (12) months following implementation of Stages 4, 5, 6 or 7 Water Rationing.
4. **Audit.** The District may periodically audit the survey data for accuracy. Upon question, the District may request additional evidence of residency to demonstrate the number of permanent residents at that site as defined in Rule 11 (Definitions).

Section Twelve: Amendment of Rule 171 (Water Waste Fees)

District Rule 171 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 171 WATER WASTE FEES

- A. Each occurrence of Water Waste or Non-Essential Water Use, as those terms are defined by Rule No. 11 (Definitions), which continues after the water user has had reasonable notice to cease and desist that type of water use shall constitute a flagrant occurrence.
- B. A \$50 fee ***per day or portion thereof*** shall be assessed for each flagrant occurrence of Water Waste or Non-Essential Water Use. ***The fee shall accumulate daily until the occurrence is corrected.***
- C. A \$150 fee ***per day or portion thereof*** shall be imposed for each subsequent occurrence (including multiple occurrences) of Water Waste or Non-Essential Water Use which

occurs within 18 months of the first occurrence. *The fee shall accumulate daily until the occurrence is corrected.*

- D. All fees shall be paid within 30 days.
- E. Within the 30 day period, a water user may seek waiver or forgiveness of all or part of the Water Waste fees on the basis of hardship. The water user must provide the District with a written explanation as to why the fees should not be collected. Staff shall be authorized to determine whether or not fees should be waived in full or in part, with the final decision resting with the General Manager.
- F. After 30 days, fees which have not been paid or waived may result in a lien being placed on the property served by the water account.
- G. Repeated occurrences or Water Waste or Non-Essential Water Use, which continue or occur after the water user has had a reasonable notice to cease and desist that type of water use, or which continues or occurs after the water user has had a reasonable opportunity to cure any defect causing that type of water use, shall provide cause for the placement of a flow restrictor within the water line or water meter.

H. Decisions pursuant to this rule are appealable under Rule 70 (Appeals).

Section Thirteen: Amendment of Rule 172 (Landscape Water Audits)

District Rule 172 shall be amended by deleting the following provisions shown in strikethrough text (~~strikethrough~~) and by adding the following provisions set forth in italicized and bold face type (*bold face*).

RULE 172 LANDSCAPE WATER AUDITS

- A. Landscape ~~Water a~~Audits shall be conducted *under the supervision of an individual who has been certified by the Irrigation Association to conduct audits and establish Landscape Water Budgets during Stage 1 Water Conservation by the District and/or Cal-Am or their designated agent(s).* Each *audit shall be signed by that person, who shall attest that the audit was performed under his/her direction.* ~~party is authorized to conduct audits and establish water budgets for all dedicated irrigation meters, large irrigated areas over three acres, and large residential water users supplied by Cal-Am when that system derives its source of supply from the MPWRS. Landscape Water Audits shall be completed within 180 days of implementation of Stage 1 Water Conservation.~~
- B. Landscape ~~w~~Water ~~a~~Audits *and Landscape Water Budgets* shall be offered by the District and/or Cal-Am or their agent free of charge to all water users of Cal-Am with dedicated landscape meters, large irrigated areas over three acres, and large residential water users. Water use records shall be reviewed annually to identify new water users required to establish a ~~Landscape w~~Landscape ~~b~~Budget by this ~~Section rule~~. Cal-Am shall provide the District with ~~data on~~ *copies of* all completed *Landscape w*Water ~~a~~Audits *and Landscape Water Budgets.*
 - 1. Cal-Am water users shall be required to obtain ~~Landscape w~~Landscape ~~a~~Audits and establish *Landscape w*Water ~~b~~Budgets if the property:
 - a. Has a dedicated landscape water meter; or
 - b. Is an irrigated area of greater than three acres; or

- c. Is a large residential water user.
2. All Landscape Water Auditors *Budgets* must be approved by the Monterey Peninsula Water Management District *prepared by an individual certified by the Irrigation Association*.
 3. All water users required to complete a *Landscape Water* ~~a~~Audits and establish a *Landscape Water* ~~B~~udgets shall have the option of obtaining a *Landscape Water* ~~a~~Audit and *Landscape Water* ~~b~~Budget from an approved Landscape Water Irrigation Auditor of their choice at their own expense *if the auditor is certified by the Irrigation Association*.
 4. Landscape ~~Irrigation Water~~ Audits not conducted by the District and/or Cal-Am shall be reported on a Landscape Water Budget Application. Landscape Water Budget Applications shall be submitted to the District *Cal-Am* ~~within 180 days of the implementation of Stage 1 Water Conservation~~. *Cal-Am shall forward a copy to the District within ten (10) days*. Landscape ~~Water~~ ~~a~~Audits not performed by the District or Cal-Am *are* subject to review and acceptance by the District. *Landscape Water* Audits and *Landscape Water* ~~b~~Budgets rejected by the District may be appealed to the Board of Directors pursuant to Rule 70 (Appeals).
 5. Landscape Irrigation Auditors shall arrange on-site visits to compile water records, to review historic use, measure irrigated sites, identify plant materials by general groups, determine irrigation water requirements, *and* estimate potential dollar and water savings. Landscape Irrigation Auditors shall also develop system testing strategies, check pressure and flow rates, and conduct water application distribution tests. Data shall be collected to determine irrigation uniformity and efficiency. Soil samples shall be examined to determine soil types and root zone depths. Landscape Irrigation Auditors shall observe system operations, locate irrigation zones, prepare site audit maps and visually identify broken or misaligned equipment. All data from field tests shall be summarized and this information used to generate monthly irrigation base schedules. A copy of the Landscape Water Budget Application shall be provided to the water user. One copy of the Landscape Water Budget Application shall be submitted to the District *Cal-Am*. *Cal-Am shall forward a copy to the District within ten (10) days*.
 6. Cal-Am shall provide quarterly compliance status notices to each water user required to follow a mandatory *Landscape Water* ~~b~~Budget.
- C. Modifications To Audited Landscapes. Following significant modification to an existing audited landscape, a new *Landscape Water* ~~a~~Audit shall be conducted to establish an appropriate *Landscape Water* ~~b~~Budget. It shall be the responsibility of the property owner to ensure that a *Landscape Water* ~~a~~Audit is conducted within 60 days of any such change and to submit a *new* Landscape Water Budget Application to Cal-Am.
- D. Reporting and Analysis. Cal-Am shall preserve water use records and budgets for water users subject to this provision of law for such time as the Expanded Water Conservation and Standby Rationing Plan remains effective. Updated *Landscape Water* ~~b~~Budgets shall supersede previous data. Quarterly, a report shall be compiled by Cal-Am and provided to the District showing the account information and comparing the *Landscape Water* ~~b~~Budget with actual consumption. *During Stages 2 and 3, Cal-Am shall provide the District with monthly consumption reports for all customers with Landscape Water*

Budgets.

- E. Landscape Irrigation Restrictions in the Cal-Am system that derives its source of supply from the MPWRS. Unless watering is by drip irrigation, through a hand-held hose with a positive action shut-off nozzle, or performed by a professional gardener or landscaper, the following schedule shall apply:
1. Odd Numbered Properties shall water after 5 p.m. or before 9 a.m. on Saturdays and Wednesdays only. This schedule shall also apply to properties located on the South or West side of the street in cities where no street address is available.
 2. Even Numbered Properties shall water after 5 p.m. or before 9 a.m. on Sundays and Thursdays only. This schedule shall also apply to properties located on the North or East side of the street in cities where no street address is available.

Section Fourteen: Amendment of Rule 175 (Water Rationing Enforcement)

District Rule 175 shall be amended by deleting the following provisions shown in ~~strikeout text~~ (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 175 WATER RATIONING ENFORCEMENT

A. Enforcement During Stages 4 through 7 Water Rationing.

1. Courtesy Notice. For the first instance of excess water use beyond the ration in Stages 4 through 7 Water Rationing, a water user shall be given written notice by the water system operator of the excess use and shall be notified that such violation constitutes water waste and a water waste fee of \$50 ***per day*** shall be collected in the event the water user again exceeds that user's water ration during any future billing cycle under Stages 4 through 7 Water Rationing. If the water user complies with all water rationing and water waste and non-essential water use requirements during the next month following the first instance of excess use, the excess use fee shall be deferred.

If the water user again exceeds that user's water ration during any following month, the water waste fee of \$50 ***per day*** shall be imposed immediately ***and shall accumulate daily until the occurrence is corrected.***

2. Second Offense. Upon the second occurrence of excess water use (including any prior excess water use during any prior stage) a water user shall be charged with water waste and assessed a fee of \$150 ***per day*** for the second offense, plus the previously deferred \$50 first offense fee, by the District or its agent. ***The \$150 fee shall accumulate daily until the occurrence is corrected.***
3. Third Offense.
 - a. A third occurrence of excess water use (including any prior excess water use during any prior stage) shall result in an excess water use charge equivalent to the Cal-Am per unit water charge at the water user's level of use multiplied by the number of units over a water ration, plus \$150 ***per day*** as provided in Rule 171 (Water Waste Fees). A third occurrence of excess water use shall provide cause for the installation of a flow restrictor in the water meter or water supply

providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 2 Water Conservation or a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.

4. **Fourth Offense.** A fourth occurrence of water use in excess of the water ration shall result in fees and charges listed for a third offense and shall result in the installation of a flow restrictor by the system operator in the water meter or water supply providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 3 Water conservation or to a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.

- B. **Flow Restrictor Exemption.** Exemptions to the installation of a flow restrictor as a means to enforce the water ration shall occur when there are provable risks to the health, safety and/or welfare of the water user. *The following An exemption shall be made for water meters serving three or more multi-family dwelling units by substituting an excess water use charge of \$150 times the number of dwelling units located on the meter during each month in which a violation of the water ration occurs. The responsible party shall be liable for payment of all excess water use charges.* ~~apply in the event a flow restrictor cannot be installed in the water meter or water supply providing water to a property due to health, safety or welfare requirements:~~

1. ~~Water Meters Serving Three or More Multi Family Dwelling Units. The responsible party shall be charged \$150 times the number of dwelling units located on the meter during each month in which a violation of the water ration occurs. The responsible party shall be liable for payment of all excess water use charges.~~

- C. All notices and assessments of water waste and/or excess water use charges made by a water distribution system operator shall be reported to the District.

Section Fifteen: Amendment of Rule 11 (Definitions)

District Rule 11 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~) and by adding the following provisions set forth in italicized and bold face type (***bold face***).

~~Excessive Emergency Use Rates~~ – ***“Excessive Emergency Use Rates”*** shall mean a higher block water rate used by Cal-Am during Stage 3 Water Conservation as a mechanism to discourage excessive water use.

Estimated Applied Water – ***“Estimated Applied Water” shall mean a projection of the amount of water that should be supplied to a landscape by the irrigation system, as measured by a water meter. For new or existing sites, Estimated Applied Water can be calculated using estimates for plant water use, effective rainfall (if desired), and irrigation system efficiency.***

Irrigation Association – ***“Irrigation Association” shall mean the non-profit entity located at 6540 Arlington Boulevard, Falls Church, VA 22042-6638 USA, its successors and assigns. The Irrigation Association provides technical information related to irrigation services and offers professional training and certification to irrigation technicians in the public and private sectors.***

Landscape Irrigation Auditor – ***“Landscape Irrigation Auditor” shall mean a person approved certified by the Monterey Peninsula Water Management District Irrigation Association to perform Landscape Water Audits and assign Landscape Water Budgets.***

Landscape *Water* Audit – “Landscape *Water* Audit” shall mean an action taken by a District-approved Landscape ~~Irrigation~~ Auditor *certified by the Irrigation Association* to determine reasonable outdoor water use.

Landscape Water Budget – “Landscape Water Budget” shall mean a maximum annual water allowance in gallons per year, determined upon completion of a Landscape ~~Water~~ Audit by a District-approved Landscape Irrigation Auditor *certified by the Irrigation Association*. The Landscape Water Budget shall take into consideration the types of plants, soil condition, evapotranspiration rates and irrigation system.

Maximum Applied Water Allowance – “Maximum Applied Water Allowance” shall mean the calculated “not-to-exceed” limit of annual applied water excluding rainfall for a mature landscaped area. Calculations recommended by the Irrigation Association shall be used to determine the maximum usage permitted for a site.

Stage 3 Water Conservation – “Stage 3 Water Conservation” shall mean the third stage in the District’s Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints and to respond to potential drought or emergencies by imposing higher water charges *emergency use rates for excessive water use to encourage water reduction*.

Stage 4 Water Rationing – “Stage 4 Water Rationing” is defined as the fourth stage in the District’s Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 15 percent reduction goal from system production limits for non-Cal-Am water users. Reductions are achieved by voluntary water use cutbacks in addition to ~~excessive~~ *emergency* use rates imposed during Stage 3 Water Conservation.

Section Sixteen: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Seventeen: Effective Date

This ordinance shall be given effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

Section Eighteen: Sunset

Upon modification of SWRCB Order No. 95-10, or at least every five years at the January meeting, beginning with the first review in January 2010, the Board of Directors shall hold a public hearing to consider whether or not the provisions of this ordinance shall be continued, modified, or rescinded.

Section Nineteen: Severability

If any section, sub-section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and

phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases may be declared invalid.

On motion by Director Pendergrass, and second by Director Edwards, the foregoing ordinance is adopted upon this 21st day of March, 2005, by the following vote:

AYES: Directors Edwards, Foy, Pendergrass and Potter

NAYS: Directors Lehman and Markey

ABSENT: Director Knight

I, David A. Berger, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the 21st day of March, 2005.

Witness my hand and seal of the Board of Directors this 22nd day of March, 2005.

David A. Berger, Secretary to the Board

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